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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., ET AL.,

Petitioners,

v.

STATE OF CALIFORNIA, ET AL.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE

LAURENCE H. TRIBE
Griswold Hall 307
Harvard Law School
Cambridge, Massachusetts 02138
(617) 495-4621

Counsel for Petitioners

(Including Appendices A to I-1)

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PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE

Summary

Petitioners[1] pray that a writ of certiorari issue to review six closely-related final judgments of the Court of

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[1] Petitioners are:

(1) The Worldwide Church of God, Inc. ("the Church"), incorporated in California in 1947, one of the temporal entities through which the Church of God, an unincorporated spiritual body, conducts its principal activities in the United States. Seven thousand of the Church's 70,000 members live in California.

(2) Ambassador College, Inc. ("the College"), founded by the Church in 1947 and incorporated by the Church in California in 1951 to train students for the Church's ministry.

(3) Ambassador International Cultural Foundation, Inc. ("the Foundation"), incorporated by the Church in California in 1975 to further the Church's mission of culturally enriching its members and the community and introducing the Church to the general public through its good works.

(4) Worldwide Advertising, Inc., incorporated by the Church in California in 1969, an agency through which the

Appeal of the State of California, Second Appellate District, Division Three,[2] denying petitions for mandate and/or prohibition to set aside (1) a connected series of discovery orders[3] and (2) an ancillary enforcement de-

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Church proclaims its gospel by means of radio and television.

(5) Gateway Publishers, Inc., incorporated by the Church in California in 1973, a company used by the Church to publish some of its books to aid in fulfilling its commission.

(6) Herbert W. Armstrong, Jr., the 87-year-old Pastor General, founder, and spiritual and temporal leader of the Church since its modern inception nearly 50 years ago.

(7) Stanley R. Rader, Armstrong's closest temporal and spiritual adviser.

(8) Ralph K. Helge, a long-time attorney and officer of the Church and its affiliated institutions.

(9) Henry Cornwall, a close associate of Rader and Helge.

Appendices A through I-1, which include the orders and judgments challenged in this petition, as well as the state statutes involved in this case, appear in the body of this petition at 1a-37a. Appendices J through Z-2, which include record excerpts that reveal the grounds on which the judgments below rest and the manner in which petitioners presented their constitutional objections below, are bound separately pursuant to Rule 23(1)(i) of the Rules of this Court, and are paginated 1b-328b.

[2] *See* Rule 23(5) of the Rules of this Court, permitting the filing of a single petition for a writ of certiorari seeking review of several cases from the same court that involve two or more identical or closely related questions.

[3] Those orders:

(1) compel petitioner Armstrong to appear for deposition with designated documents. Orders of Superior Court dated March 13, 1979, App. 2a, and July 19, 1979, App. 4a, petition denied by Court of Appeal on September 18, 1979, 2d Civ. No. 57303. App. 1a. *See* n.28 *infra*.

(2) direct the production of various documents by petitioners Rader and Cornwall. Order of Superior Court dated September 21, 1979, App. 13a, petition denied by Court of Appeal

on October 22, 1979, 2d Civ. No. 57640. App. 11a. *See* n.30 *infra*.

(3) direct the production of various documents by petitioner Cornwall. Orders of Superior Court dated August 8, 1979, App. 16a (also denying motion to dismiss complaint), and September 21, 1979, App. 18a, petition denied by Court of Appeal on October 4, 1979, 2d Civ. No. 57290. App. 15a. *See* n.30 *infra*.

(4) require the production of specified documents by former Church officials. Order of Superior Court dated August 31, 1979, App. 21a, petition denied by Court of Appeal on October 4, 1979, 2d Civ. No. 57445. App. 20a. *See* nn.31 & 32 *infra*.

(5) compel answers to interrogatories and direct production of designated documents by the Church, the College, and the Foundation. Orders of the Superior Court dated August 8, 1979, App. 8a, and August 31, 1979, App. 10a, petition denied by Court of Appeal on September 28, 1979, 2d Civ. No. 57291. App. 6a. *See* n.29 *infra*.

On February 8, 1980, the Attorney General declared his intention to move the Superior Court on February 25, 1980, for an order holding petitioners in contempt and for sanctions. Notice of Motion for Order Holding Specified Defendants in Contempt of Discovery Orders of This Court and for Sanctions. On the relationship between the overhanging threat of contempt and the finality and ripeness of the judgments below, *see* pp. 48-49 & n.76 *infra*.

As soon as the February 8, 1980, notice was issued, petitioners began efforts to prevent the use of contempt—or of any other sanction beyond that already imposed, *see* pp. 44-47 *infra*—to coerce compliance with the challenged orders pending this Court's review of their validity on certiorari. Thus, beginning February 8, petitioners filed numerous stay motions, petitions for writs of prohibition or mandamus, and other applications for relief in the Superior Court, in the Court of Appeal, and in the California Supreme Court. The latter court denied a stay of discovery on February 14, 1980, and denied a writ of prohibition against further enforcement of the discovery orders on February 25. The Court of Appeal on February 22, 1980, had likewise refused to stay the Superior Court's discovery orders; and, on February 25, the Court of Appeal refused to stay its own earlier judgments upholding those orders, and also refused to issue a writ of prohibition against further enforcement of those orders by the Superior Court pending certiorari. The Superior Court, in turn, has declined even to rule formally on petitioners' application for a stay; on February 25, that court simply deferred to April 2, 1980, the scheduled hearing on contempt and further sanctions.

cree,[4] all entered by the Superior Court of the State of California for Los Angeles County between March 13, 1979, and September 21, 1979.[5] The California Supreme Court denied review of the Court of Appeal's six judgments on November 16 & 21, 1979. App. 35a.[6]

The Worldwide Church of God, a half-century-old hierarchical church with an international membership of over 70,000, "has not been accused of any wrongdoing." App. 212b. Nonetheless, beginning on January 3, 1979, the Church was subjected to an unannounced, warrantless raid by armed officers of the State, who occupied the Church under a receivership for seven weeks in order to probe all of its books, records, and documents without limitation as

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Petitioners have thus exhausted all state mechanisms for suspending, during consideration of this petition, either the discovery orders challenged here, *see* pp. 18-21 *infra*, or the ancillary enforcement decree also challenged in this case. *See* n. 4 & p. 21 *infra*. Petitioners have been able only to delay a hearing on the imposition of still further punishment for their pursuit of appellate remedies in the courts below and in this Court.

[4] That decree stays all discovery by petitioners *from* the State, subject to modification at the request of any petitioner who abandons judicial challenge to discovery *by* the State. Orders of Superior Court dated August 8, 1979, App. 24a, and September 21, 1979, App. 26a, App. 307b, petition denied by Court of Appeal on October 4, 1979, 2d Civ. No. 57294. App. 23a. *See* n.33 *infra*. Petitioners' efforts to stay the Superior Court's orders pending certiorari, *see* n.3 *supra*, have extended to this enforcement decree. The decree has not been stayed; further argument in the Superior Court on whether the decree should be lifted pending certiorari has been deferred by that court to April 2, 1980.

[5] *See* nn.3 & 4 *supra*. Arising out of *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607, these orders and decrees are described more fully at pp. 18-21 & nn.28-33 *infra*.

[6] Because the California Supreme Court's denials of petitions for hearing were refusals to exercise its authority, petitioners seek review of the judgments of the Court of Appeal, "the highest court of [the] State in which a decision [going to the merits of the Superior Court's challenged orders] could be had." 28 U.S.C. §1257. *See Sullivan* v. *Texas*, 207 U.S. 416, 422 (1908); *Michigan-Wisconsin Pipe Line Co.* v. *Calvert*, 347 U.S. 157, 160 (1954).

to time or subject matter.[7] That raid and receivership were arranged at a secret meeting, held prior to the filing of the State's complaint, between the Attorney General of California, several disaffected Church members and their nominee for receiver, and a superior court judge. App. 156b.[8] The receivership was stayed when Church members posted a $3.4 million bond on March 16, 1979,[9] when the Superior Court had issued only one of the discovery orders challenged here. But the Attorney General is now pursuing the objectives of the receivership through the civil discovery orders sustained below—indeed, with the benefit of thousands of Church documents seized during the State's initial, seven-week occupation under the receivership.[10]

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[7] *See* n.23 *infra*.

[8] *See* n.23 *infra*. Hillel Chodos, the private attorney at whose behest the Attorney General brought suit, *see* Declaration of Hillel Chodos, App. 311b, was deputized to represent the State in this action from the beginning. Minute Order of Superior Court, *Rader* v. *Chodos*, Super. Ct. No. C 275207 (December 31, 1979) (finding in defamation suit). Chodos pressed the State's assault on the Church in cooperation with Deputy Attorneys General Lawrence R. Tapper, James M. Cordi, William S. Abbey, and Lauren R. Brainard.

[9] On March 12, 1979, the Superior Court set the stay bond at $1 million. *See* App. 61b. On March 16, 1979, Church members posted a stay bond of $3.4 million. On March 22, 1979, the California Supreme Court refused, by a four-to-three vote, to grant a petition for hearing or a petition for extraordinary relief from the receivership thus stayed by the posting of the bond. Petition for Writ of Certiorari, App. A, No. 78-1720. Because the receivership had been stayed and was subject to review on direct appeal in the state courts, Cal. Code Civ. Proc. §904.1(g), the Attorney General urged this Court to deny review of the California Supreme Court's refusal of extraordinary relief as presenting no live controversy. Brief in Opposition to Petition for Writ of Certiorari 10-11, No. 78-1720. This Court denied review of that refusal on October 1, 1979. *Worldwide Church of God, Inc.* v. *California*, L. A. No. 31091 (Cal. Sup. Ct.), *cert. denied*, 100 S.Ct. 172 (1979). No such lack of live controversy can be urged by the State here.

[10] *See* nn.23 & 24 *infra*. Previously seized documents both point the Attorney General toward possible areas of inquiry and suggest hidden meanings in what is discovered. As he gains access to in-

The Attorney General's jurisdictional premise is that "the People of the State of California, as beneficiaries of charities," [11] "have not only the power, but the duty, at any time to investigate all the [Church's] books and records, 100 percent of [its] books and records," App. 170b, (1) to determine whether—as the State alleges in this case—Church assets might have been diverted to someone's personal use, *e.g.*, *id.* at 4b, 6b-8b, 17b, 22b, 26b, 31b, and (2) to support its demand that Church officers be removed, *id.* at 9b, 22b, 33b, and that the Church's form of governance be restructured. *Id.* at 5b, 23b-25b.[12] A pro-

creasing numbers of such documents seized by the receiver or his agents, the Attorney General becomes increasingly able to probe the innermost recesses of the Church, combining (a) what was seized under the receivership with (b) what is obtained by subsequent discovery into (c) a *total* picture of the Church's inner life.

On January 29, 1980, the Attorney General noticed for February 15, 1980, the deposition of Bruce Bunner of Peat, Marwick & Mitchell, the accounting firm retained by the receiver. Having taken custody of 6,918 documents and records confiscated from the Church under the receivership, the firm was to hold these documents and records, pursuant to an agreement between the receiver and the Church, as an agent of the receiver, not to disclose them to the Attorney General without a prior court order.

On February 15, 1980, the Superior Court rescheduled Bunner's deposition for February 19, 1980, pending disposition by Mr. Justice Rehnquist of the Church's application for a stay of the Superior Court's order, filed February 15, 1980. Justice Rehnquist denied that application the same day, and the Church on February 17, 1980, reapplied for a stay with Mr. Justice Brennan, who denied that reapplication the next day.

On February 19, 1980, preparations were made for Peat, Marwick & Mitchell's production of the Church documents and records in its possession, but the California Supreme Court on February 20, 1980, stayed the Superior Court's order pursuant to which such production was to be made, pending disposition of the Church's petition for hearing, filed with the California Supreme Court that same day, to review the Court of Appeal's refusal on February 19, 1980, to prohibit enforcement of the order.

[11] State's Opposition to Demurrers to Second Amended Complaint 8-9, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (September 14, 1979).

[12] *See* App. 79b and App. 90b for the State's formal demands for information and documents from the Church itself. The interroga-

tective order was denied petitioners on May 29, 1979, *id.* at 62b-63b; thus most of the information demanded by the State, if it prevails, would be exposed publicly, *id.* at 239b —without even prior *in camera* screening.

None of these discovery orders has been complied with yet, but each is reinforced by a coercive decree denying petitioners—so long as they persist in seeking judicial review of the discovery orders upheld below—any opportunity to defend themselves from the State's public accusations by securing discovery of pertinent information in the State's possession.[13] The moment anyone complies with one of those orders, of course, part of the Church's religious privacy will be irretrievably lost.[14] And if this petition were denied, the Church would be utterly helpless to avoid that injury, or to obtain an adjudication of any of the questions set forth below—whatever might occur in any trial or appellate proceeding in state court.

Because the Attorney General essentially seeks in this case an opportunity to probe the Church and to spread its inner life upon the public record, *see* p. 25 & n.44 *infra*, it

tories to and requests for production of documents by the College and the Foundation closely parallel those directed at the Church, and thus are not included in any appendix to this petition. *See* Rule 23(4) of the Rules of this Court.

[13] *See* n.4 *supra* and n.33 *infra*. Even before the coercive decree had been entered, the court-appointed receiver acknowledged that the State's very effort "to find out . . . if [the Attorney General's allegations are true" would inevitably harm the Church with adverse publicity. App. 147b. "But there would not have been the publicity that we had," the receiver observed, "if we'd had cooperation [from the Church]." *Id.*

[14] Although each opening in the wall of privacy causes irreparable harm, *see Maness* v. *Myers*, 419 U.S. 449, 460, 463 (1975), whatever remains private is, of course, entitled to continuing protection. Were the rule otherwise, a state would be rewarded for any invasion of religious or otherwise protected privacy, however egregious, since the victims of any such invasion would become fair game for repeated assaults once the first had been accomplished.

is crucial to recognize that the "pre-trial" orders upheld below are not interlocutory decrees entered in preparation for some more definitive confrontation, but are final awards of the precise relief the Attorney General claims as the State's due. *See* n.25 and pp. 48-49 & nn.76-78 *infra*. *Cf. Abney* v. *United States*, 431 U.S. 651, 658, 660 (1977); *Stack* v. *Boyle*, 342 U.S. 1, 6 (1951); *Cohen* v. *Beneficial Industrial Loan Corp.*, 337 U.S. 541, 545-47 (1949).

Such further relief as the Attorney General also hopes to obtain after a full trial, *see* p. 25 & nn.45-46 *infra*, provides no occasion for this Court to delay review. First, the matter of further relief might well become academic were the Church forced to relinquish its privacy. Moreover, the probe and exposure upheld below are unconstitutional even without further imposition upon the Church. *See* pp. 26-31 *infra*. Finally, the very request for such further relief as a rationale for the discovery sought and sustained below aggravates the constitutionally impermissible character of that discovery. *See* pp. 36-41 *infra*.

There is, in addition, special reason to be concerned lest the Attorney General achieve his forbidden aims without ever having to bring this or any other church to trial. Chillingly, the Attorney General has referred to "other cases in which this office has involved itself in the supervision of assets held by religious corporations many of which were resolved short of trial and appeal."[15] The Attorney General's celebration of such out-of-court "resolution" of challenges to his supervisory authority over churches cannot fail to concern this Court—however well-meaning he may be. *Cf. Olmstead* v. *United States*, 277 U.S. 438, 479 (1928) (Brandeis, J., dissenting). For any state's capacity to expose all the internal records and papers of a church upon mere suspicion and without even the check of a complete

[15] Letter from Attorney General to State Assemblyman William H. Ivers, January 31, 1979. App. 326b.

trial and appeal surely represents a most fundamental challenge to the regime envisioned by the Framers. *Cf.* L. Carroll, *Through the Looking Glass* (Harper & Brothers ed. 1902).[16]

Investigatory programs as ambitious as that exposed in this petition must not be allowed to sink from sight—whether through complicity or through coercion—without plenary review. Remitted to the shadowy world of church-state accommodation, such programs and the claims to power they embrace would continue—invisibly, and therefore unreviewably—to erode the wall that separates church and state, destroying the foundation and structure of religious freedom itself.

Opinions Below

The per curiam opinions of the Court of Appeal are not reported; they appear at App. 1a (2d Civ. No. 57303); 6a (2d Civ. No. 57291); 11a (2d Civ. No. 57640); 15a (2d Civ. No. 57290); 20a (2d Civ. No. 57445); and 23a (2d Civ. No. 57294). The minute orders of the Superior Court upheld by the Court of Appeal also appear at App. 2a, deposition appearance order item nine, and 4a (2d Civ. No. 57303); 8a (2d Civ. No. 57291); 13a (2d Civ. No. 57640); 16a (2d Civ. No. 57290); 21a (2d Civ. No. 57445); and 24a (2d Civ. No. 57294).[17] No opinion was rendered by the Supreme Court of California, which denied hearings in all six cases on November 16 & 21, 1979, by a vote of four to three. App. 35a.[18]

[16] *See id.* at 88 (The King's messenger is "in prison now, being punished; and the trial doesn't even begin till next Wednesday; and of course the crime comes last of all.").

[17] *See* nn.3 & 4 *supra*.

[18] *See* n.6 *supra*.

Jurisdiction

The discovery and enforcement orders of the Superior Court were entered on March 13, 1979, July 19, 1979, August 8, 1979, August 31, 1979, and September 21, 1979. *See* nn.3 & 4 *supra*. Adverse pre-trial discovery orders and rulings may be set aside in California only through writs of mandate and/or prohibition. *Daly* v. *Superior Court*, 19 Cal. 3d 132, 140, 560 P.2d 1193, 1198, 137 Cal. Rptr. 14, 19 (1977); Cal. Code Civ. Proc. §904.1. *See* n.75 *infra*. Such writs were timely sought in the Court of Appeal of the State of California, Second Appellate District, Division Three. The final judgments of that Court denying relief were entered on September 18, 1979, September 28, 1979, October 4, 1979, and October 22, 1979. *See* nn.3 & 4 *supra*. The Attorney General treats these denials as "affirmation[s] of [the lower court's] rulings." [19]

Timely petitions for hearing in the California Supreme Court[20] were denied by a vote of four to three on November 16 & 21, 1979. App. 35a. Within 90 days of that date, on February 8, 1980, Circuit Justice Rehnquist extended from February 14, 1980, to March 31, 1980, the time in which to file this petition for a writ of certiorari. This consolidated petition, *see* n.2 *supra*, is being filed before that date. This Court's jurisdiction is invoked under 28 U.S.C. §1257(3).[21]

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[19] Memorandum of Points and Authorities in Support of Motion for Order Holding Specified Defendants in Contempt of Discovery Orders of this Court and for Sanctions 13, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (February 8, 1980) ("[T]he appellate courts have spoken in the form of these denials and have upheld the position of the [trial] court.").

[20] The petitions for hearing in 2d Civ. Nos. 57303 (filed September 28, 1979), 57291 (filed October 9, 1979), 57290, 57294, and 57445 (filed October 15, 1979), were timely filed in the California Supreme Court, which by order of November 8, 1979, accepted on that day the one-day-late filing of the petition in 2d Civ. No. 57640 (filed November 8, 1979).

[21] *See* n.6 *supra*.

Questions Presented

Under the First, Fourth, and Fourteenth Amendments,

1. May the innermost deliberations and documents of an entire church be laid bare through compulsory process and public inquisition to uncover suspected misuse of church assets by individual church officers:

   (a) without a judicial determination that the suspicion has some basis in fact?

   (b) without a judicial determination that less drastic alternatives would be insufficient?

2. May such investigation of a church proceed through discovery orders sought and issued in a lawsuit:

   (a) whose jurisdictional premise is that the church, being a charitable organization, has no private rights and thus is subject to continuing state supervision?

   (b) whose prayer for relief is that the church be restructured from hierarchical to congregational form and that its leaders be removed from their positions in the church and excluded permanently from any position of trust in the state?

3. Is such discovery permissible where it would exploit the fruits, and fulfill the objectives, of a temporarily stayed receivership that had commenced with the unannounced, warrantless raid of church premises and ransacking of church files?

4. For seeking to set aside the discovery orders issued in this investigation, may the church and its officers be penalized by court orders denying them any defensive discovery from the state, and thus any effective chance to defend their reputations, until they abandon their judicial challenges and yield to the state's discovery demands?

Constitutional and Statutory Provisions Involved

United States Constitution, Amendment I:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ."

United States Constitution, Amendment IV:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

United States Constitution, Amendment XIV, §1:

"[N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The California statutes involved in this case are set forth at App. 30a-34a.

Statement of the Case

I.

Petitioners challenge as unconstitutional a sweeping investigation by the State of California into the Worldwide Church of God, undertaken pursuant to an asserted state authority to examine all internal documents and communications of any church in the State—"without limitation," App. 233b, and "at any time." *Id.* at 170b. According to the State, "no privileges, constitutional or otherwise," *id.*, can block the inquiry's course "if there is the slightest hint or suspicion of wrongdoing," *id.* at 173b, for when a church

pursues its charitable mission within the State, "the usual principles are not applicable." *Id.* at 158b.[22]

The instant investigation began—at the instigation of six disaffected Church members—with an unannounced, warrantless search and seizure of Church premises and property, lasting from January 3, 1979, until March 16, 1979.[23]

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[22] At times relying upon an investigatory power over charitable corporations and trusts inapplicable to religious organizations by the very terms of the statute conferring such power, *see* Uniform Supervision of Trustees For Charitable Purposes Act §12581, App. 33a, and §12583, App. 34a, and at other times invoking a supervisory statutory authority over religious corporations, *see* California Corporation Code §9505 (superseded), App. 30a, and California Nonprofit Religious Corporation Law §9230 (effective January 1, 1980), App. 31a, the Attorney General has unambiguously declared that "the powers conferred by [these statutory provisions] are merely in addition" to his "common law supervisory powers over charities." State's Opposition to Demurrers to First Amended Complaint 10, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (June 28, 1979). Thus the Attorney General asserts that his "supervisory powers over charities extend [ ] to *all* persons and *all* entities which hold assets in trust for charitable purposes, regardless of their organizational structure," *id.* at 25 (emphases added), and the Attorney General claims that he "could take the same enforcement action as [he] is taking in the instant case with regard to an unincorporated church, and the fact that [a] church has incorporated does not subject it to any more stringent supervision by the Attorney General than would otherwise be the case." *Id.*

[23] Although the State filed its initial complaint on January 2, 1979, on the relation of six disaffected Church members, App. 1b, the State pursued its suit against the Church without them. *See id.* at 12b, 146b, 195b, 201b-202b, 208b. *See* n.8 *supra* and n.34 *infra*. The complaint itself sets forth, entirely on information and belief, a variety of unattributed and undocumented allegations of financial misconduct by Church officers, accusing them of "siphoning off," *id.* at 4b, "pilfering," *id.* at 6b, and "liquidating," *id.*, assets of the Church for their own use and benefit, *see id.* at 4b, 6b-8b, of "shredd[ing] and destroy[ing]" Church records, *id.* at 7b, and—"the one cruncher," *id.* at 175b—of a supposedly impending sale of Church property in Texas below market value. *Id.* at 6b-7b.

Having been shown a draft of the yet-to-be-filed complaint in a secret, *ex parte* hearing on January 2, 1979, *see id.* at 157b, the Superior Court, in apparent violation of L.A. Superior Court Rule 7, §§1-2, and L.A. Writs and Receiver Manual, Rules 238(a) and

The investigation crystalized into a controversy ripe for

305, that day appointed a temporary receiver with no notice to the Church and with no finding that giving notice would be problematic. The Superior Court authorized agents of the Attorney General to begin a general search and seizure of Church offices and files the next morning, also without notice and with no warrant. *See id.* at 35b-37b. The State was not required to observe any such formalities here, the receiver explained at Church headquarters on January 4, 1979, because "this is not what we call an adversary proceeding." *Id.* at 146b.

> [H]ere there are no both sides. The Complaint merely wants an accounting. The Complaint says that there have been allegations that there has been a misuse of charitable funds. . . . All the Complaint wants is access to the records to prove or disprove that.

Id. at 147b. *See also id.* at 201b.

Thus the Superior Court's authorization of the instant investigation was sought and obtained on the theory that, because the Church of God exists under the laws of the State for charitable, religious, and educational purposes, its property "always . . . rests in the Court's custody, and [is] always . . . subject to the supervision of the Court on the application of the Attorney General." *Id.* at 158b. As trustees of a charitable organization, the Church's officers "serve at the Court's pleasure." *Id.* at 159b. On this theory alone, the Superior Court on January 2, 1979, invited the receiver to supervise the State's probe of the Church—"this bowl of spiders," as the Court described the Church. *Id.* at 164b.

The Superior Court concluded less than two weeks later that the below-value sale which it had regarded as "the one cruncher" among the State's allegations, *id.* at 157b, was a fiction, *id.* at 174b, resting upon "sheer speculation, conclusion and hearsay." *Id.* at 183b. The Superior Court also subsequently ruled that the State had failed to substantiate its claim that the Church was destroying, or had ever destroyed, Church records for suspect purposes. *See id.* at 215b. Nevertheless, although the State had utterly failed to support these key allegations, the Superior Court on January 19, 1979, continued the receivership, Order Appointing Receiver *Pendente Lite, id.* at 41b and 48b; the Superior Court, then as later, accepted the State's claim that "the slightest hint or suspicion of wrongdoing" suffices to create on the part of the Church a duty of complete disclosure. *Id.* at 173b, 179b. What the court had heard was "enough to raise an eyebrow." *Id.* at 212b.

The State had triggered a duty of virtually complete disclosure on the part of the Church by having made "the slightest showing sufficient . . . to raise the Court's eyebrow . . . that there

review by this Court through the issuance of, and the refusal to set aside, a series of discovery orders building

may perhaps be improprieties," *id.* at 179b, having raised "questions . . . which . . . place the court on notice that there might conceivably be some problems on the part of [petitioner] Rader with reference to the church." *Id.* at 185b. *See id.* at 182b, 212b. On this basis, the State was to control all Church books and records "without limitation." Order Appointing Receiver *Pendente Lite, id.* at 41b. All Church functions other than those deemed genuinely "ecclesiastical" by the Superior Court, *id.* at 45b, *see also id.* at 213b, 216b, were likewise to be controlled by the State. Finally, Church documents were to "be made available to the representatives of [the State] in this action, for use in preparing for the trial." *Id.* at 43b.

Various controversies arising out of the receiver's conduct in intercepting communications between the Pastor General and the Church's worldwide membership, *see id.* at 38b-40b, led the Superior Court on March 2, 1979, to replace the receivership with an injunctive order authorizing the Office of the Attorney General to proceed, without the aid of a receiver, with its full-scale investigation of the Church. *See id.* at 49b-58b. The Superior Court warned petitioners that an even more sweeping receivership than the one superseded by this injunctive order would be reimposed, however, if "one or two petitions come into this court with arguments made that [documents demanded by the State] involve ecclesiastical matters." *Id.* at 216b. Such arguments, the Superior Court warned, would be "evidence of bad faith" on the part of the petitioners, *id.*, since the court had concluded that financial and ecclesiastical matters were automatically distinguishable, each identifiably discrete. *Id. See id.* at 213b. *See also* nn.47 & 66 *infra.*

Petitioners appealed this injunction, thereby staying its effect. In response and without notice, the trial court on March 12, 1979, reimposed the receivership despite the Court's recognition of "the absolute right of the defendants and to take this appeal." *Id.* at 226b. The court explained that "the incredible resistance of the defendants to this audit . . . [has] to make a reasonable mind suspicious," *id.*, and rejected petitioners' argument that reimposing the receivership unconstitutionally penalized them for asserting their rights. *Id.* at 230b. The Superior Court did, however, permit the members of the Church to stay the reimposed receivership by posting a stay bond of $1 million, *see id.* at 59b-61b, and on March 16, 1979, the Superior Court lifted the reimposed receivership after Church members posted a stay bond of $3.4 million. The Superior Court ruled that, without any showing of factual basis or special need, deputies of the Attorney General would thenceforth be en-

upon that seven-week search and seizure,[24] relentlessly probing virtually all of the operations and deliberations of the Church.[25]

Arguing that the investigative enterprise constituted by those discovery orders itself impermissibly entangles church and state and indefensibly exploits prior state violations of the Church's First, Fourth, and Fourteenth

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titled to secure discovery of any documents sought in the exercise of "their good judgment and discretion." *Id.* at 219b.

Objecting to one especially instrusive State effort to secure discovery, petitioners argued that the State not be permitted "a direct pipeline into the [Church] computer," *id.* at 222b, on the ground that "there is privileged information on the computer," *id.*, disclosure of which to the State would violate petitioners' and others' First, Fourth, and Fifth Amendment rights. *Id.* at 221b. But the Superior Court refused to entertain any such objections "in advance" of the State's document discovery, *id.* at 222b, electing to rely on "the Attorney General's good faith" to protect the fundamental rights thus left at risk. *Id.* at 219b. When petitioners reiterated their objection that this approach would irretrievably sacrifice such rights, the Superior Court regretfully answered: "That is something I can't do anything about." *Id.* at 222b.

[24] Documents and information seized from the Church or from related persons or entities by agents of the receiver or by other officers of the State between January 3, 1979, and March 16, 1979, were to be made available to the State in its preparation for trial. App. 43b, 51b-54b, 60b. *See* n.23 *supra*. On March 23, 1979, the Attorney General notified a Congressman that the State was "currently reviewing information obtained by the court-appointed receivers," *id.* at 64b, and that "[a]ny future legal actions will be determined by that review." Letter of Attorney General Deukmejian to Honorable Douglas Applegate, App. 64b. *See* n.10 *supra*.

[25] Although the merits of the allegations in the State's complaint had not then been ruled upon—and, indeed, have yet to be tried—the Superior Court has not wavered from its conclusion of March 1, 1979, that the State is already "entitled to a full and complete audit." App. 218b-19b. The orders upheld below, *see* nn.3 & 4 *supra* and nn.28-33 *infra*, underscore the Superior Court's determination of March 12, 1979, that the State must be given "full access to *all* the books, records, . . . and the like," of the Church, App. 227b (emphasis added), once the State has made allegations sufficient "to raise an eyebrow." *Id.* at 212b.

Amendment rights, petitioners sought unsuccessfully to have those discovery orders set aside in the State's appellate courts through the writ procedure applicable in such cases. *See* p. 10 *supra* and n.75 *infra*. Petitioners argued, also to no avail, that the challenged orders—especially in light of the conditional stay of defensive discovery—unconstitutionally employ the coercive apparatus of state power to burden religious freedom and to place the fate of the Church and the privacy of its inner life in the hands of individuals whose sacrifice of confidential Church records at the State's demand the Church is powerless to prevent.[26]

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[26] In challenging the coercive stay order below, petitioners called the attention of the Court of Appeal to the State's effort "to drive a wedge between the Church and its leaders . . . [in the] apparent hope that by dividing . . . the State will conquer." Memorandum in Support of Petition for Writ 5, 2d Civ. No. 57294 (September 11, 1979).

Throughout the proceedings in the state courts—from the filing of the demurrers to the State's first complaint and to its amended complaints, to the filing and oral argument of objections in the Superior Court and the filing of petitions for writs in the Court of Appeal and of petitions for hearing in the California Supreme Court—petitioners have challenged the State's entire inquiry as violative of the First Amendment's Religion Clauses and the Fourth and Fourteenth Amendments, and as tainted by prior First and Fourth Amendment violations. *See, e.g.*, App. 176b-78b, 206b (Religion Clauses); 221b (Fourth Amendment); 223b, 230b (Due Process); 257b, 283b (Religion Clauses); 295b-99b (First and Fourteenth Amendments); 301b-02b (Fourth Amendment); 304b (Fourteenth Amendment).

Repeatedly, petitioners also urged that the discovery orders, especially those directed to petitioner Armstrong and to the Church itself, would "interfere with [the] religious work . . . of the Church" in circumstances where such discovery would not have been demanded of the Pope or of the highest officials of religious organizations favored by or or at least inoffensive to the State. *See, e.g.*, Memorandum in Support of Order Prohibiting or Deferring the Taking Deposition of Defendant Herbert W. Armstrong 5-6. The Attorney General dismissed the analogy: "[T]his is not a case of a pope or head of the Mormon Church or, certainly, not the case of a governmental agency. . . ." App. 241b. *See id.* at 250b-51b.

II.

Entered without explanation in the face of those constitutional objections,[27] the judgments below leave standing a series of interlocking trial court decrees:

(1) which command the Pastor General of the Church—its 87-year-old founder and spiritual and temporal leader—to submit in public to oral interrogation by the Attorney General, and to bring with him virtually every Church-related scrap of paper in his possession, including (a) any writings between himself and the Church, from its inception a half-century ago to the present, "which . . . pertain in any way to any financial transactions, or the use or proposed use of any assets of [the Church]," App. 77b; and (b) "[a]ll diaries, telephone logs or similar writings which evidence appointments, meetings, telephone conversations, or communications by or to [the founder or his closest advisor] from January 1, 1970 to present," *id.*;[28]

(2) which command the Church itself, the College which trains the Church's ministry, and the Foundation through which the Church presents its works to the public,

(a) to answer comprehensive interrogatories revealing, among other things,

[27] *See* App. 1a, 6a, 11a, 15a, 20a, 23a.

[28] Pursuant to the Attorney General's Notice of Taking Depositions and Notice To Produce Documents (January 22, 1979), App. 67b, the Superior Court on March 13, 1979, ordered Armstrong to appear for deposition, App. 2a, deposition appearance order item nine, and on July 19, 1979, granted the Attorney General's motion to compel Armstrong's appearance with the noticed documents. App. 4a. The Attorney General's Notice to Appear and Produce was updated on July 26, 1979. App. 73b. The Court of Appeal on September 18, 1979, denied a petition to set aside the resulting order. 2d Civ. No. 57303, App. 1a. *See also* App. 62b-63b, 239b. Armstrong has refused to appear pending final appellate disposition of his constitutional challenges to the State's inquiry. *See* n.3 *supra*.

(i) the names of all recipients of gifts from each such entity over the past decade, *id.* at 82b;

(ii) the sources and amounts of all loans obtained to help finance the construction of the Foundation's auditorium, *id.* at 84b; and

(iii) the names and addresses of all widows and orphans in California who received aid from a designated Church fund within the last five years, *id.* at 85b; and

(b) to produce for public examination a variety of documents including all minutes of all meetings of the Church's Board of Directors or its committees, on all subjects, from 1957 to the present, *id.* at 90b, and all correspondence between the Church or anyone on its behalf and the Church's first diplomatic representative to the Far East, *id.* at 94b;[29]

(3) which command the closest adviser of the Church's founder and leader, and one close associate of that adviser, to produce for public examination all documents pertaining to any financial, contractual, or other agreements between them and the Church, *id.* at 96b;[30]

[29] Pursuant to the Attorney General's Interrogatories (May 18, 1979), App. 79b, and Requests for Production of Documents (May 18, 1979), App. 90b, *see* n.12 *supra*, the Superior Court on August 8, 1979, ordered the Church, the College, and the Foundation to answer all of the interrogatories "without objection," App. 8a, and on August 31, 1979, ordered the Church, the College and the Foundation to produce all of the designated documents. App. 10a. The Court of Appeal on September 28, 1979, denied a petition to set aside these orders. 2d Civ. No. 57291, App. 6a-7a.

[30] Pursuant to the Attorney General's Request of June 5, 1979, for Production of Documents by Stanley Rader, App. 96b-104b, and Request of June 5, 1979, for Production of Documents by Henry Cornwall, App. 105b, the Superior Court on September 21, 1979, ordered Rader and Cornwall to produce all but a specified few of the designated documents, App. 13a (2d Civ. No. 57640)

(4) which command several former high officials of the Church, including directors of pastoral administration and teachers of theology, *id.* at 113b, to produce for public examination some 105 documents to which they had gained access during their official service and which include personal letters of Church members, internal Church memoranda analyzing the impact of fiscal decisions on Church operations, and other such writings;[31]

(5) which command these former Church officials to produce for *in camera* inspection some 155 documents to which

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and 18a (2d Civ. No. 57290). The Court of Appeal on October 4, 1979, denied petitions to set aside these orders in 2d Civ. No. 57290, App. 15a (Cornwall), and on October 22, 1979, in 2d Civ. No. 57640, App. 11a (Rader).

[31] On May 8, 1979, subpoenas duces tecum were served upon former Church officers Robert L. Kuhn, C. Wayne Cole, and David L. Antion. Upon Kuhn's appearance for deposition, the documents he had brought with him in answer to his subpoena were identified as Church records; these have since been entrusted to counsel for the ex-officers pursuant to an order of the Superior Court issued on May 21, 1979. By motion of May 29, 1979, the State sought to compel production of the documents in question. This motion was expanded to include those documents in the possession of Cole and Antion, which had been entrusted to the same attorney. Through a Memorandum in Opposition dated June 7, 1979, and a Supplemental Memorandum dated August 20, 1979, petitioners objected that document production in compliance with the State's demand would violate their First and Fourteenth Amendment rights. Rejecting those objections, the Superior Court on August 31, 1979, ordered that 105 of the documents be produced for the State's public use in deposing the ex-officers. App. 21a-22a at 22a (first full paragraph). The Court of Appeal denied a petition to set aside this order in 2d Civ. No. 57445 on October 4, 1979. App. 20a. *See* n.3 *supra*. The documents covered by this order include, among many others, a summary of mail received by the Church over a one-week period (item 159), a Church official's phone bills (item 292), a personal letter of a Church member (item 85), an internal Church memorandum analyzing the impact of budget cuts on Church operations (item 42), and an internal memorandum to Church employees regarding their spiritual responsibilities *vis-à-vis* the State under the receivership (item 271). (These item numbers correspond to the list at App. 22a, 113b-45b.)

they had also gained access during their official service, and which include even more confidential materials—such as letters from ministers about their penitential work; rough drafts of private theological tracts; and the unpublished page-proofs of a manuscript entitled "The Doctrine of the Worldwide Church of God";[32] and

(6) which seek both to coerce compliance with all of the above discovery orders without further judicial challenge, and to punish any such challenge, by staying all defensive discovery from the State by any petitioner who persists in contesting the State's power to compel the discovery it seeks—while the State remains free to air in public its allegations of misconduct by such petitioners.[33]

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[32] Item 94, *see* App. 22a, 126b. The procedural history of the order demanding these documents is the same as that of the order described in n.31 *supra*. The documents covered by this aspect of the Superior Court's August 31, 1979, order include, among many others, memoranda and unfinished drafts on purely theological matters exchanged among the several of the highest religious officials of the Church (*e.g.*, items 58, 59, 63, 78, 214); exchanges of views among Church officials about various published works (*e.g.*, items 56, 57); memoranda describing or assigning tasks for the Church's Systematic Theology Project (*e.g.*, items 67, 112, 121, 122, 125); internal communications about Church organizations or about the work of the field ministry in various countries (*e.g.*, items 73, 74, 82, 107, 170, 171, 206, 207, 209, 239); confidential agendas of various committee meetings (*e.g.*, items 142, 145, 146, 148, 149, 150, 151, 156, 160, 162); internal communications about ministerial and biblical studies (*e.g.*, items 95, 124); letters from ministers to Church leaders about their spiritual work (*e.g.*, items 243, 259); an internal preliminary draft of an "institutional self-study report" (item 152) and the final version of the same report (item 153); unpublished page-proofs of "The Doctrine of the World Church of God" (item 94); and a preliminary draft of a Church press release dealing with the understandably sensitive subject of relations between the Church and the Attorney General's Office (item 270).

[33] *See* nn.4 & 13 *supra*. Over petitioners' objection that they were *all* being penalized unfairly for the entirely lawful pursuit of appellate remedies by petitioner Stanley Rader, App. 246b-47b, 271b-78b, the Superior Court on August 8, 1979, ordered that all discovery of information in the State's possession be stayed until

III.

This comprehensive probe into Church decisions, deliberations, and documents has been sustained below not to assist in the judicial resolution of any intra-church dispute over rightful ownership or control of church property. No such dispute is involved here,[34] and the trial court has expressly ruled that the wishes of the Church's 70,000 members are "immaterial." *Id.* at 205b. Nor has this probe been sustained as a means of preventing or redressing any injury to public health, safety, or well-being

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at least September 21, 1979, App. 24a-25a, 281b-82b, in light of petitioner Rader's persistent challenge to being deposed and in light of the Superior Court's certitude that all petitioners (defendants in the proceedings below) would resist that court's discovery orders on what the court regarded as misguided First Amendment grounds. App. 278b-81b. On September 21, 1979, the Attorney General urged the continued use of judicial pressure not only to induce petitioner Rader to make discovery, but also to induce all *other* petitioners to do so, *id.* at 304b-05b, characterizing petitioners' requests for writs to quash the Superior Court's discovery order as "a concerted and combined effort to avoid discovery." *Id.* at 305b. Accordingly, on September 21, 1979, the Superior Court stayed all discovery by defendants until at least November 26, 1979, App. 26a, and ruled that "any defendant who makes discovery here would be in a position to ask the court to reconsider the [stay] order as it might relate to him." *Id.* at 307b. This stay has been routinely extended in light of petitioners' continuing challenge to the State's discovery. *See, e.g.,* App. 28a-29a (December 18, 1979). On October 4, 1979, the Court of Appeal denied a petition to set aside this rolling stay. 2d Civ. No. 57294. App. 23a.

[34] Although the State's complaint was initially filed at the instigation, and on the relation of, six disaffected members of the Church, *see* nn.8 & 23 *supra,* their involvement reflected at most that "corrupting coalition or alliance" between church members and the state which history had taught Madison to fear. J. Madison, IX *Writings* 487 (G. Hunt ed. 1910). This case does not involve a specific contest between contending factions both of which seek to use or control the same church property, with one such faction seeking judicial assistance to protect its claimed right from the other. As the Attorney General put it: "In this case there isn't any adversary proceeding between party A and party B." App. 201b. "The suit," he explained, "clearly is one to enforce public rights. . . ." *Id.* at 202b. *See id.* at 146b-47b. *See also* pp. 38-39 *infra.*

said to have been caused or threatened by the Church or by its members. The trial court itself stressed that the Church "has not been accused of any wrongdoing," *id.* at 212b, and the Church does not even solicit contributions from the general public.[35]

Nor, finally, has the probe in this case been upheld as a necessary means of pursuing probable misappropriation or other misconduct by individual Church officers. Although the State has alleged possible wrongdoing by several Church officers in the most colorful terms,[36] all of its charges either draw in question conduct constitutionally immune to the State's examination and control[37] or rest entirely on uncorroborated hearsay described generously as "information and belief." [38] Indeed, the State has steadfastly disclaimed any duty to establish even probable cause to believe that actual wrongdoing has occurred.[39] And the Superior Court, satisfied to entrust the fundamental rights here at risk to the Attorney General's "good faith" self-restraint in conducting virtually open-ended discovery against the Church, *id.* at 219b, chose not to "make any

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[35] The State has never attempted to show otherwise, and has acknowledged that the "givers" of money to the Church "are the people all across the country who send in their tithes and their double tithes and their offerings." App. 180b.

[36] *See* n.23 *supra.* Like the State's Complaint, filed January 2, 1979, the State's Second Amended Complaint, filed July 30, 1979, adverts to the "siphoning off and diverting" of Church assets and properties by Church officers "on a massive scale," App. 17b, and to the "pilfering and misappropriation" of such assets and properties by Church officers "on a massive scale." *Id.* at 26b.

[37] *See* pp. 36-41 *infra.*

[38] *See, e.g.,* Complaint, App. 26a-27a; Second Amended Complaint, *id.* at 15b, 17b, 19b, 20b, 22b, 26b, 27b, 30b. And the State peppered its information-and-belief accusations against the Church with requests for leave to amend even the Second Amended Complaint with more substantial allegations if and when its probe of the Church yields actual evidence of wrongdoing. *E.g., id.* at 16b, 20b.

[39] *See* App. 179b, 182b, 209b-210b, 214b, 218b, 279b, 286b.

effort . . . to try to delineate what [the agents of the State] may look at and what they can't," *id.* at 218b, ordering panoramic discovery without having formed any "belief that somebody has done something wrong here." *Id.* at 279b. Consistent with this approach, at no point did the State allege or the Superior Court find that either (a) criminally investigating and prosecuting identified individuals, or (b) enjoining specific transactions, or (c) permitting derivative suits by individual Church members, would prove insufficient to prevent or redress the harms feared. *See id.* at 289b.[40]

As the sole justification for proceeding to investigate, and for investigating so broadly and intrusively, in the absence of any factual showing that misconduct may have occurred, the Attorney General advanced below, and the Superior Court accepted, the theory that, because "the [Church's] property [is] truly owned . . . by . . . the people of California," *id.* at 154b, "there are no private rights here," *id.* at 180, and "the usual [constitutional] principles are not applicable" in this case. *Id.* at 158b. Like any other charitable organization in the State, therefore, the Church holds all of its property, assets, books, and records as a mere trustee for the people of California, who are the true beneficiaries of all such assets and documents, *see id.* at 162b, 201b—even where, as here, no trust instrument so declares, and few of the contributing members live in California. *See* n.1 *supra.* Thus the Superior Court explained that simply to assert that records bearing on financial matters might be constitutionally protected is itself proof of bad faith.[41] And according to the Attorney General, the very fact of resisting comprehensive public inquiry establishes unfitness to serve as a trustee of Church assets.[42]

[40] *See, e.g.,* California Corporations Code §§ 9142, 9511-9514.

[41] *See* App. 213b, 216b. *See* n.47 *infra.*

[42] *See* Second Amended Complaint ¶¶18, 20, 22, App. 21b-22b.

Because the Superior Court considered that "this is not a First Amendment situation," [43] it saw no need to impose upon the State any burden to justify laying bare the Church in the course of a lawsuit undertaken thoroughly to expose the Church's inner workings,[44] fundamentally to restructure its form of governance,[45] and permanently to remove various of its officers.[46] *See* pp. 6, 18-21 *supra* and 40-41 *infra.*

Reasons for Granting the Writ

Both the investigation sanctioned by the judgments below, and the claims of state authority upon which that investigation rests, dramatically abridge the rights of petitioners under the Free Exercise, Search and Seizure, and Due Process Clauses, and are irreconcilable with the Establishment Clause. Under the Fourteenth Amendment, the orders challenged below should thus have been set aside. If allowed to stand, those orders in themselves will irreparably compromise the constitutional claims advanced herein—and will seriously erode the constitutional protections of all citizens.

[43] App. 279b.

[44] *See* Complaint ¶8, App. 3b; ¶21, *id.* at 8b; Prayers 1 & 3, *id.* at 9b; Second Amended Complaint ¶11, *id.* at 176; ¶18, *id.* at 21b; ¶25, *id.* at 25b; Prayer 1, *id.* at 32b; Prayer 4, *id.* at 33b.

[45] *See* Complaint ¶¶12-13, App. 5b; Second Amended Complaint ¶¶24-25, *id.* 23b-25b.

[46] *See* Complaint, Prayer 2, App. 9b; Second Amended Complaint, Prayer 2, App. 33b.

I.

The Discovery Orders Upheld Below Conflict Squarely With the Security of Personal Papers and Effects From Unreasonable Search and Seizure; With Associational Privacy; With the Free Exercise of Religion; and With the Separation of Church and State.

The breadth and intrusiveness of the investigatory orders upheld by the court below need little further elaboration. *See* pp. 18-21 *supra.* Any and all internal Church deliberations and documents, however confidential, that could conceivably bear on the Church's collections or disbursements of funds, its allocations of resources, or its contractual and employment relationships—that is, all things remotely bearing on the existence of the Church as more than a loose community of shared beliefs—are automatically deemed unprotected from the Attorney General's gaze,[47] notwithstanding this Court's frequent reminders that raising and spending money are often inseparable aspects of First Amendment activity. *See, e.g., Village of Schaumburg* v. *Citizens for a Better Environment,* 48 U.S. L.W. 4162, 4165 (1980) (advocacy); *Buckley* v. *Valeo,* 424 U.S. 1, 16 (1976) (per curiam) (speech); *Murdock* v. *Pennsylvania,* 319 U.S. 105, 115 (1943) (religion).

Only nominally an investigation of financial misconduct, the State's inquiry seeks to spread upon the public record

[47] Warning counsel for petitioners that it would regard as "evidence of bad faith" any "arguments that the financial records [sought from the Church by the State] involve ecclesiastical matters," the Superior Court on February 21, 1979 stated:

> I just don't think ecclesiastical matters have anything to do with the financial aspects of the operation out there.
>
> I can see a clear delineation between what is ecclesiastical and what is not, but it has no reference whatsoever to financial matters. . . . I want that to be very, very clear.

App. 216b. *See* pp. 40-41 & n.66 *infra.*

literally decades of minutes and diaries, letters and preliminary drafts, notes and memoranda—covering virtually all facets of Church life.[48] Beyond that, purely theological correspondence and unfinished religious tracts are to be submitted for *in camera* inspection by the State's judicial authorities.[49] Nor is the investigation to be limited to examination of documentary material: even the venerated founder and spiritual leader of the Church himself has been ordered to appear for public interrogation about his stewardship of the Church.[50] Constituting the core of this investigation, the discovery orders upheld below suffer from three sets of constitutional infirmities.

A. *The Challenged Examination and Review of Church Records by Civil Authorities Constitutes Forbidden Entanglement.*

The State's sweeping investigation and evaluation of Church records and decisions are the very paradigm of forbidden entanglement between civil and ecclesiastical authority. Repeatedly, this Court has acted to avoid investigatory entanglements between church and state distinctly less pervasive and intrusive than that sanctioned by the court below. *See, e.g., NLRB* v. *Catholic Bishop of Chicago,* 440 U.S. 490, 501-04 (1979); *Serbian Eastern Orthodox Diocese* v. *Milivojevich,* 426 U.S. 696, 708-12 (1976); *Presbyterian Church* v. *Hull Church,* 393 U.S. 440, 449 (1969).[51]

[48] *See* pp. 18-21 *supra.*

[49] *See* pp. 20-21 & n.32 *supra.*

[50] *See* p. 18, *supra.*

[51] *See also Surinach* v. *Pesquera de Busquets,* 604 F.2d 73, 78 (1st Cir. 1979) (consumer affairs agency cannot inspect financial documents of parochial schools as part of investigation into causes and cures of inflation); *Fernandez* v. *Limmer,* 465 F. Supp. 493, 505 (N.D. Tex. 1979) (provision authorizing government examination of financial records of charities to ascertain whether their collection cost is too high to justify issuance of permit to solicit contributions at local airport *held* void as applied to religious organizations).

Indeed, government aid otherwise forbidden to religon has at times been tolerated precisely because the alternative would have entailed "state investigation into church operations and finances." *Walz* v. *Tax Commission,* 397 U.S. 664, 691 (1970) (Brennan, J., concurring). And even if the Church or any of its related entities actually *welcomed* "government's . . . power to inspect and evaluate [its] financial records and to determine which expenditures are religious and which are secular," *Lemon* v. *Kurtzman,* 403 U.S. 602, 621-22 (1971), programs inviting the exercise of such power have squarely been held impermissible under the First and Fourteenth Amendments. *Id. See Wolman* v. *Walter,* 433 U.S. 229, 252-55 (1977).

B. *The Public and Coercive Character of This Investigation Infringes Petitioners' First Amendment Rights of Associational and Religious Privacy.*

The investigation sanctioned by the court below goes far beyond a forbidden entanglement, however. This investigation is, in addition, both *coercive* and *public* in character,[52] flouting this Court's solemn warning "that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment." *Buckley, supra,* 424 U.S. at 64.[53] Especially "when those forced revelations concern matters that are unortho-

[52] *See* App. 62b-63b, 293b. To be sure, some of the materials demanded might be protected from public exposure through *in camera* screening. *See* pp. 20-21 & n.32 *supra.* But this Court has ruled that not even the promised secrecy of grand jury investigation can save an inquiry " 'far too sweeping in its terms to be regarded as reasonable' under the Fourth Amendment. *Hale* v. *Henkel,* 201 U.S. 43, 76 (1906)." *United States* v. *Calandra,* 414 U.S. 338, 346 (1974) (grand jury subpoena duces tecum, despite secrecy, must be disallowed if too sweeping) (dictum).

[53] *See, e.g., Gibson* v. *Florida Investigating Committee,* 372 U.S. 539 (1963); *Shelton* v. *Tucker,* 364 U.S. 479 (1960); *NAACP* v. *Alabama ex rel. Patterson,* 357 U.S. 449 (1958); *Sweezy* v. *New Hampshire,* 354 U.S. 234, 245 (1957) (Warren, C.J., announcing judgment).

dox, unpopular, or even hateful to the general public, the reaction in the life of the witness"—and of the religious organization the witness leads—"may be disastrous." *Watkins* v. *United States,* 354 U.S. 178, 197 (1957). The image of the aging patriarch of the Church being interrogated by the Attorney General dramatizes this Court's teaching that "[t]he mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference." *Id.*

More generally, the tendency of "[b]road and sweeping state inquiries," *Baird* v. *State Bar,* 401 U.S. 1, 6 (1971) (Black, J., announcing judgment), to "discourage citizens from exercising rights protected by the Constitution," *id.,* can be blocked only if "the power of compulsory process [is] carefully circumscribed when the investigative process tends to impinge upon such highly sensitive areas as freedom of speech." *Sweezy* v. *New Hampshire,* 354 U.S. 234, 245 (1957) (Warren, C.J., announcing judgment). Yet the record in this case reveals anything *but* a "carefully circumscribed" inquiry.

C. *The Orders Upheld Below Lack the Factual Basis and Narrow Scope Required by the First and Fourth Amendments.*

The inquiry here is essentially a fishing expedition. Its unfocused design is "to investigate allegations of misuse [of assets] or even suspicions of misuse," App. 172b, impermissibly compelling wide-ranging disclosure upon "the mere suspicion that [some of] the information sought may constitute or lead to evidence that some of the people concerned, or others, have violated State . . . laws." *Pollard* v. *Roberts,* 283 F. Supp. 248, 257-58 (E.D. Ark.) (three-judge court), *aff'd mem.,* 393 U.S. 14 (1968) (per curiam) (enjoining compelled disclosure, without probable cause, of a political party's financial records in an attempt to uncover election frauds). *Cf. Speiser* v. *Randall,* 357 U.S.

513, 526 (1958). *See* n.52 *supra*. On the very day it ordered the Church, the College, and the Foundation to answer comprehensive interrogatories, the Superior Court, satisfied with mere "notice that there might conceivably be some problems," *id.* at 185b—"enough to raise an eyebrow. . . ." *id.* at 212b—candidly stated that it had formed "no belief that somebody has done something wrong here." *Id.* at 279b. It simply wanted to find out.

Even if probable cause could somehow be made out on this record, no investigation as sweeping and intrusive as this could constitutionally rest upon as weak a foundation as that presented here. For when the Attorney General's "investigative process tends to impinge upon such highly sensitive areas as [First Amendment] freedom[s]," *Sweezy, supra,* 354 U.S. at 245, not even a requirement of "probable cause for conducting a particular investigation . . . is . . . likely . . . [to] prove an adequate safeguard against unwarranted inquiries," unless "the record . . . reveal[s] what reasonable or reliable information led the Attorney General to question petitioner," *id.* at 252, and unless the "existence and weight [of such information] were . . . independently reviewed by the state courts." *Id.* at 252 & n.13.

The inquiry in this case has been sanctioned in utter disregard not only of these settled criteria of cause, but also of less drastic, and less entangling, alternatives for achieving the State's legitimate aims—whether through civil suit brought by individual Church members alleging a misappropriation of funds contributed by them, or through criminal prosecution of allegedly guilty individuals. *Cantwell* v. *Connecticut,* 310 U.S. 296, 306-07 (1940); *Schneider* v. *Irvington,* 308 U.S. 147, 164 (1939); *International Society for Krishna Consciousness* v. *Bowen,* 600 F.2d 667, 669-70 (7th Cir. 1979). *Cf. Village of Schaumburg, supra,* 48 U.S.L.W. at 4166. *See* p. 24 & n.40 *supra*. Even if probable cause—or more—were conceded as to individual Church officers, therefore, there would be no justification

for methodically ransacking the records of—and ultimately dismembering—the entire Church. The First and Fourteenth Amendments forbid any such gratuitous state invasion of protected privacy and liberty—even, and perhaps especially, in the name of "protecting" a church from its own leaders. *See Shelton* v. *Tucker,* 364 U.S. 479, 487-90 (1960); *Sherbert* v. *Verner,* 374 U.S. 398, 407 (1963); *Surinach* v. *Pesquera de Busquets,* 604 F.2d 73, 79 (1st Cir. 1979). *Cf. Olmstead, supra,* 277 U.S. at 479 (Brandeis, J., dissenting).

The court below, forgoing both a probable-cause requirement and a less-drastic-alternative requirement, was content to "rely on the Attorney General's good faith," App. 219b—on his "good judgment and discretion," *id.*—rather than "try[ing] to delineate what [the Attorney General] may look at and what [he] can't." *Id.* at 218b. But "simply [to] assume . . . that every . . . investigation is justified by a public need that overbalances any private rights affected . . . would be to abdicate the responsibility placed by the Constitution upon the judiciary to insure that [government] does not unjustifiably encroach upon [the] right to privacy nor abridge . . . liberty of speech, press, religion, or assembly." *Watkins, supra,* 354 U.S. at 198-99. Abdicating that responsibility and inviting altogether discretionary and uncontrollably discriminatory state investigation, the judgments below would set a pernicious precedent indeed if allowed to stand.

II.

The Claims of State Authority Underlying These Discovery Orders, and the State's Conduct of the Lawsuit in Which the Orders Were Entered, Are Starkly Incompatible With Rights of Private Property and Religious Autonomy.

The judgments below must be set aside not only because of the invalidity of the discovery they decree, but also because of the constitutional flaws in the claims of state authority that those judgments expose and exploit.

A. *The State's Claimed Source of Authority Is Unconstitutional.*

The State's central claim, repeated at every crucial juncture, has been that it is simply enforcing the rights of "the People of the State of California, as the beneficiaries of charities," [54] to examine what are, after all, "public records [and] public assets." App. 162b. Since Church "property [is] truly owned . . . by . . . the people of California," *id.* at 154b, the Church and its officers obviously have "no privileges, constitutional or otherwise . . . against investigation by the Attorney General." *Id.* at 170b-71b. It follows, as the Superior Court succinctly put it, that the wishes of the Church's 70,000 members are simply "immaterial." *Id.* at 205b. So too are the wishes and beliefs of the Church's leaders—for they are but trustees, and the "court may remove and replace and substitute trustees at its pleasure." *Id.* at 172b.[55]

[54] State's Opposition to Defendants' Demurrers to Second Amended Complaint 8-9, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (September 14, 1979). "The Church, the College and the Foundation, as well as the individual named defendants . . . hold and are responsible for the assets of the three charitable entities, as trustees, subject to supervision by the Attorney General and ultimately by this court. The ultimate beneficiary in each instance is the public which benefits generally from all charitable endeavors." Second Amended Complaint ¶10, App. 16b-17b. *See also* Complaint ¶3, App. 1b-2b.

This remarkable assertion of state authority is said to derive simply from the Church's charitable character—not from any specific trust instrument, or even from any supposed acceptance of intrusive state supervision by virtue of the Church's decision to incorporate in California. For the State insists—no doubt to avoid the gravest of equal protection and establishment clause challenges[56]—that "the Attorney General could take the same enforcement action as it is taking in the instant case with regard to an unincorporated church." [57] All genuine churches in the State are thus subject to precisely the same fate as the Worldwide Church of God: no matter where its officers and the overwhelming majority of its members may live, *see* n.1 *supra,* and no matter how fervently its members may wish to put their faith in the discretion of the church's hierarchy, any church that enters California physically (or perhaps even intangibly) holds all of "its" assets—buildings, books, sacraments, donations, pews—in trust for the people of the State. And, with or without the trust label, any such church must stand ready to reveal all, both through "periodic accountings" [58] and through accountings to be conducted under the Attorney General's lash whenever an "eyebrow" is raised. App. 212b.

[55] In the Second Amended Complaint ¶22, the State asks "that each of the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge should be perpetually enjoined and restrained from serving as officers or directors, or any other capacity, with respect to the Church, College or Foundation or any other California charitable or trust organization." App. 22b.

[56] The State obviously could not limit the advantages of normal incorporation to churches willing to waive rights of privacy and free exercise. Nor could the willingness of a church to accept pervasive state entanglement in return for the benefits of incorporation defeat an Establishment Clause challenge.

[57] *See* n.22 *supra.*

[58] Second Amended Complaint ¶25, App. 25b.

Nor can the State maintain the investigation challenged in this petition while belatedly disclaiming any such "arrogant pretension." [59] For governmental coercion to obtain information may never be justified as an end in itself; such coercion may be upheld only "as an adjunct" to some otherwise legitimate governmental process. *Watkins, supra,* 354 U.S. at 197.[60] And the *only* governmental process to which the discovery orders below were even arguably "adjunct" was one predicated entirely upon the theory set forth above—a theory without which the Superior Court might well have imposed upon the State a burden of justification it could not have met.[61] As the Attorney General's deputy conceded below, "the burden to prove . . . that there has been misconduct . . . is not [one] we ever undertook in filing this lawsuit or [one] that I think that we can carry." App. 212b-2.

Thus the Attorney General's bold assertion of *parens patriae* authority to inspect the innermost recesses of all churches—and, for that matter, of all private schools, colleges, foundations, and other non-profit entities, *id.* at 170b[62]—both periodically as a routine matter, and with special intensity whenever the foes of the Church catch the ear of the State—is squarely presented for review in this case, quite apart from the precise scope of the discovery orders themselves. And once an exercise of governmental power is unmistakably bottomed on such an

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[59] J. Madison, "Memorial and Remonstrance Against Religious Assessments," *in* II *Writings* 187 (G. Hunt ed. 1910).

[60] *Cf. Brown* v. *Texas,* 99 S.Ct. 2637, 2641 (1979) (a person unlawfully detained cannot be penalized for refusing to state his name).

[61] *See* App. 179b, 182b, 209b-10b, 214b, 218b, 279b, 286b.

[62] "The Attorney General of the State of California; and his deputies, have not only the power, but the duty, at any time to investigate all the books and records, 100 percent of the books and records of any charitable, religious or educational organization." App. 170b.

assertion of authority, it matters not whether "there is any legislative purpose which *might* have been furthered by the kind of disclosure sought," *Watkins, supra,* 354 U.S. at 204 (emphasis added), for whatever "indulgence of legality" is due the State, "such deference cannot yield to an unnecessary and unreasonable dissipation of precious constitutional freedoms." *Id.*

It is difficult to imagine a more profligate dissipation of those freedoms than that which the judgments below represent. For the State's claim of authority in this case is comprehensible *only* on the State's own explicit premise that a charitable organization such as "the Worldwide Church of God, derives its position, its existence, from the State of California." App. 170b.[63] Having recently rejected a strikingly similar premise as to business corporations, *First National Bank* v. *Bellotti,* 435 U.S. 765, 778 n. 14 (1978), this Court should now repudiate that premise as to churches and other charitable entities. To do otherwise would be to sanction a naked confiscation of private property without just compensation, *cf. Kaiser Aetna* v. *United States,* 100 S.Ct. 383, 392-93 (1979), in a context reminiscent of that in which this Court first drew the basic and enduring constitutional distinction between private and public corporate entities. *See Terrett* v. *Taylor,* 13 U.S. (9 Cranch) 43, 51-52 (1815) (Story, J.) (state cannot constitutionally dedicate church property to the poor of the parish). *Cf. United States* v. *564.54 Acres of Land,* 441 U.S. 506, 515-16 (1979) ("As a private entity, respon-

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[63] This may indeed be one of those cases in which the State's "rationale is [even] more disturbing than its [actions]." *Meachum* v. *Fano,* 427 U.S. 215, 229 (1976) (Stevens, J., joined by Brennan and Marshall, JJ., dissenting). For one should not have to recall too often "that all men were endowed by their Creator with liberty as one of the cardinal unalienable rights." *Id.* at 230. To trace all rights of the Worldwide Church of God—and thus of the worshippers it represents—to the State whence it "derives . . . its existence," App. 170b, surely "demeans the concept of liberty itself." *Meachum, supra,* 427 U.S. at 233 (dissenting opinion).

dent [church] is free to allocate its resources to serve its own institutional objectives, which may or may not correspond with community needs. . . . Respondent did not hold its property as the public's trustee and thus is not entitled to be indemnified for the public's loss.").

B. *The State's Avowed Purposes in Exercising This Authority Are Unconstitutional.*

Just as an investigation can be undertaken only under a constitutional claim of authority, so an investigation can be undertaken only for a constitutional purpose—to gather information that the State intends to put to some permissible use. *See, e.g., Surinach, supra,* 604 F.2d at 75.

1. The Judgments Below Aim Impermissibly at Supervising Spending Choices by Church Officials.

This suit and the discovery therein seek to assure that all funds donated to the Church are used "strictly for God's Work," [64] with agents of the State ultimately deciding whether devoting substantial resources to presenting representatives of "the church . . . in as beautiful and wonderful [a] fashion [as possible] to the rest of the world," App. 280b, should be viewed as acceptable investments in the Church's appeal to others or as unacceptable instances of self-dealing and diversion of Church assets to personal use.

From the earliest stages of this suit[65] to the most recent,[66] the State's accusations of fraud and misspending have all

[64] Second Amended Complaint ¶12(c), App. 18b.

[65] On January 12, 1979, the Superior Court expressed concern about the "astonishing amount of money expended here . . . for . . . travel expense, the purchase of extensive gifts and so forth." App. 183b-84b. "[S]ome expenditures along that line," *id.*, the court opined, "are completely proper and permissible." *Id.*

[66] On August 8, 1979, the Superior Court explained that it "divide[s] this in my mind in sections, and one section has to do with the operation of the church. It has to do with church doctrine. If the doctrine of the Worldwide Church of God is consistent with Mr. Helge's representations that people are to live well and that . . . the church is to be presented in as beautiful and wonderful fashion to the rest of the world as an example of how God fearing and God believing people should live, fine. . . . That does not mean that people can't be asked questions about money which are to this Court a very different matter." App. 280b. *See id.* at 216b. *See also* n.47 *supra.*

rested upon the constitutionally untenable assumption that civil authorities can draw the line between permissible and impermissible levels of generosity by the leader of the Church in dealing with his closest aides, and between permissible and impermissible levels of luxury and material display by Church representatives who serve as its emissaries in worldwide missions. That is a line a secular state is forbidden to draw. See *Serbian Eastern Orthodcx Diocese, supra,* 426 U.S. at 711-17; *Surinach, supra,* 604 F.2d at 77.

2. The Judgments Below Aim Impermissibly at Superimposing External Standards on Internal Church Relationships.

This suit and the discovery therein also seek to impose the State's conceptions of fair dealing, conflict of interest, and the like upon relationships and transactions wholly internal to the Church—insisting, for example, that the religious leader of the Church must seek and obtain "independent legal advice," [67] when concluding long-term agreements with his closest spiritual adviser, lest the latter be deemed guilty of "self-dealing" in breach of his duties as a trustee.[68] But to make such demands is to impose upon the inner life of the Church a vision of arm's-length bargaining that may be wholly alien to intra-church relationships. *Cf. Serbian Eastern Orthodox Diocese, supra,* 426 U.S. at 708-20;

[67] State's Response to Petition For Hearing in California Supreme Court 4, 2d Civ. No. 57640.

[68] *See* Second Amended Complaint ¶21, App. 22b.

NLRB, supra, 440 U.S. at 502-04. That a body of law may constitutionally be imposed upon the dealings of a church with those outside does not imply that it may similarly be imposed on internal church dealings and relationships, *cf. Wisconsin* v. *Yoder,* 406 U.S. 205 (1972)—any more than a state may extend to the internal operations of a political party the state's rules for organizational structure and behavior. *Cousins* v. *Wigoda,* 419 U.S. 477, 489-91 (1975).

In claiming that it may examine and supervise petitioners' conduct on the basis of neutral state rules of fiduciary duty and corporate governance, the State misapplies this Court's recent holding in *Jones* v. *Wolf,* 99 S. Ct. 3020 (1979), that in resolving an intra-church dispute a court may employ "objective, well-established . . . neutral principles of law" as the basis of decision, *id.* at 3025, if the court can thereby avoid making any judgments on questions of religious doctrine or organization. For unlike the controversy before this Court in *Jones,* the instant suit involves no dispute over the ownership or control of property between adversary factions within a church; no "legitimate [state] interest," *id.,* in preventing private resolution of any such controversy "by brute force," *Serbian Eastern Orthodox Diocese, supra,* 426 U.S. at 726 (Rehnquist, J., dissenting), could justify in this case even the limited intervention upheld in *Jones.* This case thus stands in sharp contrast to one in which a state's interest in preventing oppression and civil disorder may be sufficient even to offset some risk "of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern." *Presbyterian Church, supra,* 393 U.S. at 449.

The Church's only adversary in this proceeding is the State. The Attorney General, in fact, has frankly admitted that no intra-church dispute is involved in the present action: "In this case there isn't any adversary

proceeding between party A and party B." App. 201b. The State has insisted that "here there are no both sides." *id.* at 147b, characterizing the suit as "clearly . . . one to enforce public rights." *Id.* at 202b. Hence the State's pretension to the role of neutral arbiter, *e.g.,* App. 146b-47b, is belied by the absence of any internal dispute to arbitrate.

More generally, the "neutral principles approach" is commended in large measure by its deference, whenever possible, to the intentions of Church members when determining the norms to be used in resolving their controversies. Thus in upholding the use of that approach in *Jones,* this Court stressed its tendency to "ensure that a dispute over the ownership of church property will be resolved in accord with the desire of the members." 99 S.Ct. at 3025-26. But in the instant case, California's courts have baldly rejected this principle. Dismissing as "immaterial" the wishes of the Church's 70,000 members, App. 205b, who have never been alleged to disapprove of the customary manner in which the Church is governed and administered, the Superior Court unhesitatingly accepted the Attorney General's invitation to evaluate and regulate the conduct of Church officers and administrators on the basis of the fiduciary strictures preferred by officers of the State to those prevailing within the Church. Such contempt for "the intentions of the parties" violates the spirit of the "neutral principles" analysis and should not be given constitutional sanction.

Finally, the specific rules the State seeks to apply in this action themselves violate the premise of the "neutral principles" approach—that the rules of decision must be theologically unbiased, entailing no judgment on questions of religious doctrine or ecclesiastical organization. The interpretation and application of the legal norms pertaining to fiduciary duties involves subtle ethical judgments as to what precisely the "duty of the finest loyalty" should entail, and what the punctilios "of an honor the most sensitive" must be. *Meinhard* v. *Salmon,* 249 N.Y. 458, 463-64,

164 N.E. 545, 546 (1928). The meditations of a court on such issues are inevitably shaped by a variety of religious conditioned attitudes and biases—about modesty and assertiveness, altruism and self-concern, generosity and prudence, trust and caution. The prevailing views on such issues, as embodied in the common or statutory law of fiduciary relations or charitable associations, may seem misguided or even nonsensical to people of different religious persuasions. When a legislative command or a judicial decree employs such standards in evaluating and regulating the interactions of the officers of a religious organization, the state inevitably becomes involved in settling theological questions. Thus forced to make religiously biased judgments, the State oversteps the barriers established by the First and Fourteenth Amendments.

3. The Judgments Below Aim Impermissibly at Altering Church Polity and Leadership.

This suit and the discovery therein finally seek, as judicial relief, the removal of designated Church officers and their permanent exclusion from "any other California charitable trust or organization";[69] the replacement of a hierarchical Church polity under the Pastor General with a congregational structure in which members vote on "matters of importance";[70] and the restructuring of the Church into one whose "financial affairs" are separated "from its ecclesiastical or spiritual affairs," with the former being supervised by a board rather than by an individual leader. App. 24b-25b.

This entire program founders on the patent impossibility of achieving its hypothesized separation of ecclesiastical and financial church concerns—its animating postulate. In which compartment would one put a choice between purchasing 10,000 more prayer books and training 10 more

[69] *Id.* ¶22, App. 22b; *see also id.*, Prayer 2, App. 33b.

[70] *Id.* ¶25(a), App. 24b-25b.

ministers? No Solomon could perform the surgery the State demands. *Cf. Committee for Public Education & Religious Liberty* v. *Regan,* 48 U.S.L.W. 4168, 4177 & n.5 (1980).

Just as the Superior Court's proposed division between discovery of financial matters and discovery of ecclesiastical matters, App. 216b, is constitutionally indefensible, *see* pp. 27-28, 36-37 *supra,* so the Attorney General's proposed relief is a constitutional chimera. The State's prayers for relief—if they are to mean anything at all—must be understood as claiming nothing less than a power to redesign the governance and replace the leadership of the entire Church as a religious entity—and that, without any adjudication that the Church or its leaders have broken any valid law or wronged any individual. Such a claim of power flagrantly violates "the free exercise of an ecclesiastical right, the Church's choice of its hierarchy." *Kedroff* v. *St. Nicholas Cathedral,* 344 U.S. 94, 119 (1952); *Serbian Eastern Orthodox Diocese, supra,* 426 U.S. at 721-22.

C. *The State's Conduct of the Underlying Lawsuit Taints the Judgments Below.*

The discovery orders upheld below are tainted not only by the theory on which they depend and the purposes they are designed to serve, but also by the path the State has followed in obtaining them.

Acting without notice, without any discernible basis in fact, without any prior adversary hearing, and without any warrant specifying the places to be searched or the items to be seized, agents of the State flagrantly violated the federal constitutional rights of the Church by raiding its premises and carting away its records and documents from the morning of January 3, 1979, until the lifting of the receivership *pendente lite* on March 16, 1979. *See* pp. 4, 13 and n.23 *supra.* On the record here, this literal seizure of the Church and thousands of its papers deprived

it of liberty and property without the semblance of procedural due process, *North Georgia Finishing, Inc.* v. *Di-Chem, Inc.*, 419 U.S. 601 (1975), and flagrantly invaded its First, Fourth, and Fourteenth Amendment rights.[71]

By the time an adversary hearing was held from January 10, 1979, App. 172b, to January 12, 1979, App. 174b, on the confirmation of the receivership under which the Church was being held, counsel for petitioners pointed out—to no avail—that the initial raid of the Church and its records had already given "the Attorney General . . . a head start, a power, not a right, that may turn to the great disadvantage of the defendants in this case." [72] Nor did the Attorney General conceal his intention to employ that "head start" to shape the civil discovery through which he would pursue the receivership's objectives once Church members had posted the bond set by the Superior Court to lift that receivership pending appeal: just as the receivership order had itself provided that all materials seized thereunder were to be "made available . . . to the representatives of the plaintiffs for use in preparing for the trial," App. 188b-89b, 232b-33b, so the Attorney General stated that all "future legal actions" of his office would be "determined" by "reviewing information obtained by the court-appointed receivers." *Id.* at 64b-66b. *See* n.10 *supra.*

Petitioners unsuccessfully urged the Superior Court to rule that "any questions leading from those stolen documents are subject to being suppressed," *id.* at 273b, *see Wong Sun* v. *United States*, 371 U.S. 471 (1963); *Nardone* v. *United States*, 308 U.S. 338 (1939), and unsuccessfully maintained in the Court of Appeal that the initial illegality "has tainted the entire action from its inception." [73] To disregard the poisoned roots of the State's current probes into the Church—where the documents on which the State seeks to build those probes would otherwise have been unavailable, *cf. United States* v. *Ceccolini*, 435 U.S. 268, 276 (1978); where each further public use of the information originally seized constitutes "a fresh and independent violation of [First Amendment] rights," *cf. United States* v. *Calandra*, 414 U.S. 338, 353 (1974); and where the State, despite the civil form of the action it is pursuing, accuses Church officers of criminal conduct, *cf. United States* v. *Janis*, 428 U.S. 433, 446, 456-58 (1976)—is to invite an identical attack by the State upon any religious organization it may wish to slander or lay bare.

It follows that the claims of authority underlying, justifying, and leading to the discovery orders upheld below cannot be squared with rights of private association and property or of religious liberty and autonomy. Those rights are uniquely dependent upon secure expectations; they cannot long survive such visible defeats as that inflicted below.

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[71] *See LoJi Sales, Inc.* v. *New York*, 99 S.Ct. 2319, 2324-25 1979); *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307, 312-13 (1978); *Andresen* v. *Maryland*, 427 U.S. 463, 480 (1976); *United States* v. *United States District Court*, 407 U.S. 297, 313-14 (1972); *Coolidge* v. *New Hampshire*, 403 U.S. 443, 450, 467 (1971); *Carroll* v. *President & Commissioners of Princess Anne*, 393 U.S. 175, 180 (1968); *Stanford* v. *Texas*, 379 U.S. 476, 481-85 (1965); *Aguilar* v. *Texas*, 378 U.S. 108, 110-14 (1964); *Boyd* v. *United States*, 116 U.S. 616, 624-28 (1886).

[72] Reporter's Transcript for January 10, 1979, at p. 76.

[73] Exhibit H to Petition For Writ of Mandate And/Or Prohibition 3, 50-53, 2d Civ. No. 57303.

III.

The Trial Court's Punitive and Coercive Treatment of Each Defendant Who Challenges the Validity of the State's Discovery in Any Appellate Court Violates Due Process and Federal Supremacy.

The discovery orders upheld below, although not yet supplemented by direct decrees of fine or incarceration, have, in a sense, already been enforced. For they have been backed up by a series of decrees staying all discovery from the State—however vital such discovery may be to petitioners' efforts to learn of the charges against them and to defend their reputations—so long as petitioners persist in challenging the State's discovery orders in any state or federal court.

In effect, the petitioners have all been adjudged guilty —without trial—of civil contempt, with each petitioner's waiver of the right to challenge the State's discovery operating as the key to that petitioner's own release from confinement.

Over petitioners' objections that they were being penalized in violation of due process for their attempts to vindicate their constitutional rights, App. 246b-47b, 271b-78b, the Superior Court stayed all defensive discovery on July 6, 1979, *id.* at 244b-48b, and extended that stay on August 8, 1979, *id.* at 24a-25a, 281b-82b, on September 21, 1979, *id.* at 26a, and again on December 18, 1979, *see id.* at 28a-29a, on the Attorney General's insistence that something be done to halt petitioners' "concerted and combined effort to avoid discovery." *Id.* at 305b. Accordingly, the Superior Court has invited "any defendant who makes discovery"—that is, any defendant who abandons all further appellate challenges to the State's investigation—"to ask the court to reconsider the order as it might relate to him." *Id.* at 307b, 29a.

The trial court had earlier indicated that even petitioners' invocation of the undenied right to appeal from its injunctive decrees warranted the court's suspicion and thus justified the reimposition of the receivership. *Id.* at 225b-28b, 230b-32b. Indeed, the State's Second Amended Complaint itself alleged, as a reason for the permanent removal of various Church officers, that several of them had attempted to do "everything within their power to deny plaintiff access . . . to the books and records of the Church. . . ." [74]

Thus, being penalized for asserting—and even for associating with others who assert—their rights is not a new experience for petitioners in this case. But the imposition of any such penalty works with especially powerful force at this stage, for it serves as a *de facto* mechanism of enforcement for discovery orders whose validity has not yet been ruled upon by this Court or indeed been subjected to plenary review by any appellate court. And the imposition of such a penalty increases the risk that one or more of the targets of those orders will yield the information demanded in exchange for the opportunity to receive information from the State. The moment any such target yields to the State, of course, the privacy of the Church and of all who depend upon it is to that degree irreparably compromised. *See* n.14 *supra* and pp. 47-50 *infra*.

Whatever its other consequences, the imposition of such an enforcement regime clearly offends due process. Implicit in the rule that discovery, as a matter of due process, "must be a two-way street," *Wardius* v. *Oregon*, 412 U.S. 470, 475 (1973), is the corollary that a state cannot close *its* "side" of the street to punish a defendant for invoking undisputed rights of appellate and collateral review to preserve *his* "side." Moreover, punishing *some* defendants for challenges made by *other* defendants,

[74] Second Amended Complaint ¶¶18, 20, App. 21b-22b.

see n.33 *supra,* violates First Amendment rights of religious association. *Cf. Healy* v. *James,* 408 U.S. 169, 185-86 & n.13 (1972). Beyond that, a state that punishes any defendant for pursuing an avenue of legal redress which the state itself has expressly offered flagrantly violates the due process clause. *See Doyle* v. *Ohio,* 426 U.S. 610, 616-20 (1976); *North Carolina* v. *Pearce,* 395 U.S. 711, 724 (1969); *Raley* v. *Ohio,* 360 U.S. 423, 438 (1959). *Cf.* J. Heller, *Catch-22* (1955).

In addition, the act of seeking judicial review, especially in the federal courts, *see Terral* v. *Burke Construction Co.,* 257 U.S. 529, 532 (1922), represents the exercise of a federal constitutional right—perhaps, indeed, a privilege of national citizenship—independent of anything one might have been offered by the State. As such, the act is one that a state cannot significantly penalize or burden without compelling justification. *See, e.g., Shapiro* v. *Thompson,* 394 U.S. 618, 634 (1969); *United States* v. *Jackson,* 390 U.S. 570, 583 (1968); *Griffin* v. *California,* 380 U.S. 609, 614 (1965).

Finally, the penalty imposed here—denial of the chance to clear one's name of vague public accusations of criminal conduct—itself calls for a level of procedural protection well beyond anything petitioners have yet been accorded; no justification for staying their discovery—beyond the impermissible desire to force them to abandon their challenges to the State's orders—has even been offered. *Cf. Jenkins* v. *McKeithen,* 395 U.S. 411 (1969); *Hannah* v. *Larche,* 363 U.S. 420 (1960); *Joint Anti-Fascist Refugee Committee* v. *McGrath,* 341 U.S. 123 (1951).

For all of these reasons, the Superior Court's stay of defensive discovery—a stay whose lifting is conditioned upon petitioners' waiver of their rights to challenge the State's investigation of the Church—deprives petitioners of rights secured by the Due Process Clause of the Fourteenth Amendment. Unless emphatically repudiated, this technique of coercion could threaten the viability of judicial review itself.

IV.

The Presence of Overlapping Discovery Orders Directed to Numerous Individuals in Addition to the Church Creates an Unacceptably High Risk That Denying Judicial Review Now Would Permit Only Judicial Autopsy Later.

The very issuance of the orders upheld below injures petitioners. The stay of defensive discovery upheld in 2d Civ. No. 57294 has this consequence on its face: each day the stay is in effect, it continues, without justification, to disable petitioners from confronting and refuting the State's damaging accusations of misconduct. *See* App. 246b.

In addition, the discovery orders obtained by the State and upheld in 2d Civ. Nos. 57290, 57291, 57303, 57445, and 57640 constitute a governmental campaign to examine Church deliberations and documents which petitioners have challenged as unconstitutional *per se.* The judgments refusing to set those orders aside thus constitute final rejections of that challenge and, as such, are immediately reviewable determinations that the State's inquiry may proceed unconstrained by the Establishment Clause or by anything else in the First and Fourteenth Amendments.[75]

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[75] Inasmuch as the State makes review by petition for a writ of mandate and/or prohibition available to each target of the State's discovery, *see Daly* v. *Superior Court,* 19 Cal. 3d 132, 140, 137 Cal. Rptr. 14, 19, 560 P.2d 1193, 1198 (1977); *Sav-On Drugs, Inc.* v. *Superior Court,* 15 Cal. 3d 1, 5, 123 Cal. Rptr. 283, 285-86, 538 P.2d 739, 741-42 (1975); *Rudnick* v. *Superior Court,* 11 Cal. 3d 924, 928, 114 Cal. Reptr. 603, 607, 523 P.2d 643, 647 (1974); *Roberts* v. *Superior Court,* 9 Cal. 3d 330, 336, 107 Cal. Rptr. 309, 312, 508 P.2d 309, 312 (1973), the denial of such relief would in any event represent a final—and thus currently reviewable—rejection of petitioners' constitutional challenges to such discovery. *Cf. Williams* v. *Georgia,* 349 U.S. 375, 383-89 (1955). *See also* p. 10 & n.19 *supra.*

Moreover, especially given the punitive effect of the stay upheld in 2d Civ. No. 57294, and the pressure exerted by that stay, the *coercive* aspects of the discovery orders sustained below are likewise ripe for review. The Attorney General's stated intention to press for contempt judgments and various other sanctions against petitioners in the Superior Court on April 2, 1980, *see* n.3 *supra,* adds threatening insult to continuing injury but does not constitute an essential part of the case for treating as final the judgments below and for regarding as ripe the validity of the coercion those judgments, without more, already embody.[76]

Indeed, even without the pressure exerted by the stay order, the coercive cross-fire of the discovery orders themselves would suffice to establish an issue ripe for review. For those orders, which overlap significantly in content, place the privacy of each of their targets at the mercy of all others from whom discovery is sought. And it is settled that federal judicial challenge to a discovery order cannot be deemed premature—even prior to any attempted enforcement—where that order is directed, as it is here, to a third party who "could not be expected to resist . . . by placing itself in contempt." *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 514 (1975) (Marshall, J., joined by Brennan and Stewart, JJ., concurring in judgment); *id.* at 501 n.14 (majority opinion).[77]

[76] Nor does the possible entry of contempt judgments and further sanctions constitute a reason to defer review, since (1) a coercive decree analogous to civil contempt *already* reinforces the orders at issue, *see* p. 44 *supra,* and poses a continuing risk that compliance by one or more persons or entities might occur at any moment; and (2) an order to a third party who cannot be counted upon to suffer contempt is ripe for review at the behest of anyone whose rights would be compromised by the third party's compliance with the order. *See* n.10 *supra* & nn.77-78 *infra.* In sum, awaiting the outcome of possible contempt proceedings would create an unacceptable risk that the questions here would become moot before they could be resolved.

[77] The *Eastland* Court was unanimous on this issue.

If the federal judiciary should refuse to inquire preventively into the validity of such challenged orders—and of the claims of authority that underlie them—then "compliance by the third person [could] frustrate any judicial inquiry." *Id.* It follows that the Church's federal constitutional right is *to have such orders set aside* and not merely to contest their direct enforcement after the fact. *See Perlman* v. *United States,* 247 U.S. 7, 12-13 (1918).[78]

Were this Court to deny review now, the federal constitutional questions that are ripely presented by the series of orders upheld below could well be mooted for all time by acts of compliance by former Church officials or others who are either neutral or hostile to the Church and whose acts the Church and those still loyal to it would be helpless to forestall. The right of the Church to protect its privacy and that of its members from such state-induced actions by others, *cf. NAACP* v. *Alabama ex rel. Patterson,* 357 U.S. 449 (1958), can be preserved only by review now. As the Chief Justice has observed, compliance with unlawful demands for information "cause[s] irreparable injury" insofar as one "cannot always 'unring the bell' once the information has been released." *Maness, supra,* 419 U.S. at 460.[79] Beyond that, the separate claim that this entire investigation violates the Establishment Clause—and would do so notwithstanding any acquiescence by those from

[78] *See also Velsicol Chemical Corp.* v. *Parsons,* 561 F.2d 671, 673-74 (7th Cir. 1977), *cert. denied,* 435 U.S. 942 (1978); *United States* v. *Doe,* 455 F.2d 753, 756-57 (1st Cir.), *vacated and remanded on other grounds sub nom. Gravel* v. *United States,* 408 U.S. 606 (1972); *Matter of Grand Jury Impaneled January 21, 1975 (two cases),* 541 F.2d 373, 377 & n.4 (3d Cir. 1976); *Pollard* v. *Roberts,* 283 F. Supp. 248, 254, 259 (E.D. Ark.) (three-judge court), *aff'd mem.,* 393 U.S. 14 (1968) (per curiam). *See also United States* v. *Nixon,* 418 U.S. 683, 691-92 (1974). *Cf. Liberation News Service* v. *Eastland,* 426 F.2d 1379, 1384 n.10 (2d Cir. 1970).

[79] *See* n.14 *supra.* When petitioners made *this very point* to the Superior Court, App. 219b, the Superior Court simply replied: "That is something I can't do anything about."

whom the State seeks information, *cf. Lemon* v. *Kurtzman*, 403 U.S. 602, 619-20 (1971)—could not possibly be posed more starkly than it is here.

CONCLUSION

Because other religious groups might be more easily subdued than the Church of God has thus far been, this petition may well represent the last clear chance for this Court to bring under control a novel and frightening governmental assault upon both liberty and property, an assault that proceeds by obliterating time-honored boundaries between the private and the public, as well as between church and state. Both the massive and flagrant nature of the abuses of civil discovery sustained by the judgments below, and the extraordinary danger of a regime of entanglement in which few long resist but all ultimately suffer, strongly support review by this Court on writ of certiorari.

Respectfully submitted,

LAURENCE H. TRIBE
Griswold Hall 307
Harvard Law School
Cambridge, Massachusetts 02138
(617) 495-4621

Counsel for Petitioners

February 29, 1980.

Appendix A

Court of Appeal Judgment (2d Civ. No. 57303) September 18, 1979

IN THE
COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

2nd Civil No. 57303

(Super. Ct. No. C267607)

HERBERT W. ARMSTRONG, Pastor General of the Worldwide Church of God,

Petitioner,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES,

Respondent,

THE PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

ORDER

THE COURT:

The petition for writ of mandate and/or prohibition, filed herein on September 13, 1979, has been read and considered. The petition is denied.

FILED
Sept. 18, 1979
CLAY ROBBINS, JR. Clerk

Superior Court Order, March 13, 1979

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DATE MARCH 13, 1979

HONORABLE THOMAS T. JOHNSON, *Judge*

R. HART, *Deputy Clerk*

C267607
The People of the State of California, et al
vs
Worldwide Church of God, etc., et al

NATURE OF PROCEEDINGS.

Motion of defendants for order compelling appearance at depositions

and

compelling deponents to answer questions propounded at depositions

and

Motion for sanctions

In this matter previously taken under submission, the Court now rules as follows:

Appearances for the purpose of the taking of depositions are ordered as follows·

1. Stanley R. Rader
2. Benjamin Chapman
3. Chester Roberson
4. C. Wayne Cole
5. David Morgan

6. Robert Kuhn
7. David Antian
8. A. Sheridan Atkinson
9. Herbert W. Armstrong
10. Steven S. Weisman
11. Lawrence R. Tapper
12. Hillel Chodos

It is further ordered that the hearing of this matter be reconvened at 10:30 A.M., Wednesday, *March 21, 1979,* for the sole purpose of setting dates, times and places for the taking of said depositions, all said depositions to continue from day to day until completed.

A copy of this minute order is mailed to all parties.

DEPT. 80

MINUTES ENTERED
March 13, 1979
County Clerk

Superior Court Order, July 19, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Dated July 19, 1979

Honorable Thomas T. Johnson, *Judge*

J. Schmuki, *Deputy Clerk*

C 267 607

The People of the State of California

vs

Worldwide Church of God Inc.,
a California corp, et al

NATURE OF PROCEEDINGS

Matter having been submitted on July 6, 1979, the court now rules as follows:

Re submitted matters, re depositions of Herbert Armstrong;

The court has read and considered all documents relating to this matter, including defendant's supplemental memorandum filed July 13, 1979, and Mr. Brown's letter to this court dated July 18, 1979.

Plaintiff's motion is granted.

A commission will issue to take the deposition of J. Herbert Armstrong in the state of his residence on a date in August to be selected by plaintiff.

Superior Court Order, July 19, 1979

Plaintiff's counsel to supply documents.

Plaintiff's counsel to give notice.

Copy of this minute order mailed by the clerk by USMail.

DEPT. 80

MINUTES ENTERED
July 19, 1979
County Clerk

Appendix B

Court of Appeal Judgment (2d Civ. No. 57291) September 28, 1979

IN THE

COURT OF APPEAL OF THE
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

2d Civil No. 57291

(Super. Ct. No. C 267607)

ORDER

WORLDWIDE CHURCH OF GOD, INC., a California corporation; AMBASSADOR COLLEGE, INC., a California corporation; AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION, a California corporation; WORLDWIDE ADVERTISING, INC., a California corporation; GATEWAY PUBLISHING, INC., a California corporation; HERBERT W. ARMSTRONG; STANLEY R. RADER; HENRY CORNWALL; and RALPH HELGE,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES,

Respondent.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

Court of Appeals Judgment, September 28, 1979

THE COURT:

The petition for writ of mandate, filed herein on September 7, 1979, has been read and considered. The petition is denied.

(Filed: 9/28/79)

Superior Court Order, August 8, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Date August 8, 1979
Honorable T. T. Johnson, *Judge*

J. Schmuki, *Deputy Clerk*
L. Sartario, *Reporter*

C 267 607
The People of the State of California

VS

Worldwide Church of God, Inc.,
a Cal non-profit corp, et al.,

Counsel for Plaintiff

George Deukmejian, W. Brainard, J. Condi

Counsel for Defendant

George Schravelli, Allan Brown, Ellis Horvitz

NATURE OF PROCEEDINGS

Motion of plaintiff compelling further responses to interrogatories propounded by plaintiff to defendants Ambassador College, Inc., Worldwide Church of God, Inc., and Ambassador International Cultural Foundation (Set No. 1)

and

for attorneys fees

Matter is argued and submitted.

Superior Court Order, August 8, 1979

LATER:

Defendants Ambassador College Cultural Foundation, Ambassador College and Worldwide Church of God are ordered to serve further answers, without objection, to the following interrogatories served May 18, 1979, within 30 days after service of notice of this order:
Interrogatories #s; all per motion.

Moving party to give notice.

Copy of this order mailed by the clerk by USMail.

DEPT. 80

MINUTES ENTERED
August 8, 1979
County Clerk

Superior Court Order, August 31, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Dated August 31, 1979

Honorable T. T. Johnson, *Judge*

J. Sweet, *Deputy Clerk*

C 267 607
The People of the State of California

vs.

Worldwide Church of God, Inc., Etc.,
et al

NATURE OF PROCEEDINGS

Motion of plaintiff compelling further responses to requests for production of documents and things and for inspection and copying.

Within 30 days, defendants are ordered to produce to plaintiff at time and place of plaintiff's selection, items 1 through 18, per motion, which plaintiff may inspect and copy.

Copies of this minute order are mailed to counsel.

DEPT. 80

MINUTES ENTERED
August 31, 1979
County Clerk

Appendix C

Court of Appeal Judgment (2d Civ. No. 57640)
October 22, 1979

IN THE

COURT OF APPEAL OF THE
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

2d Civil No. 57640

(Super. Ct. No. C 267607)

ORDER

WORLDWIDE CHURCH OF GOD, INC., a California corporation; AMBASSADOR COLLEGE, INC., a California corporation; AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION, a California corporation; WORLDWIDE ADVERTISING, INC., a California corporation; GATEWAY PUBLISHING, INC., a California corporation; HERBERT W. ARMSTRONG; STANLEY R. RADER; and HENRY CORNWALL,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES,

Respondent.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

Court of Appeals Judgment, October 22, 1979

THE COURT:

The petition for writ of mandate, filed herein on October 22, 1979, has been read and considered. The petition is denied.

(Filed: 10/22/79)

Superior Court Order, September 21, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Dated Sept. 21, 1979

Honorable T. T. Johnson, *Judge*

J. Schmuki, *Deputy Clerk*

L. Sartario, *Reporter*

C 267 607

The People of the State of California

vs

Worldwide Church of God, Inc.,
a Cal Non-profit corp, et al.,

Counsel for Plaintiff

George Deukmejian, Lawrence R. Tapper, James M. Cordi

Counsel for Defendant

William S. Abbey, L. Brainard, Allan Gabriel, Allan Brown, Ralph Helge

NATURE OF PROCEEDINGS

Motion of plaintiff compelling further response to request to Henry Cornwall for production of documents

and

things

and

for inspection and copying

Superior Court Order, September 21, 1979

Motion of plaintiff compelling further response to request to Stanley R. Rader for production of documents and things and for inspection and copying.

Matters argued and submitted.

LATER:

Motion granted; produce all but Item #18 and any W-2 Forms requested, within 45 days.

Motion granted, produce all but numbers 21 and 24, and any W-2 Forms requested, at, or before, deposition set for 10:30 AM October 22, 1979.

DEPT. 80

MINUTES ENTERED
Sept. 21, 1979
County Clerk

Appendix D

Court of Appeal Judgment (2d Civ. No. 57290)
October 4, 1979

IN THE

COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

2d Civil No. 57290

(Super. Ct. No. C267607)

RALPH K. HELGE and HENRY CORNWALL,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES,

Respondent,

PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

ORDER

THE COURT:

The petition for writ of mandate, filed herein on September 7, 1979, has been read and considered. The petition is denied.

F I L E D
Oct. 4, 1979
CLAY ROBBINS, JR. Clerk

Superior Court Order, August 8, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

DATE August 8, 1979

HONORABLE T. T. JOHNSON, *Judge*

J. SCHMUKI, *Deputy Clerk*

C 267 607

The People of the State of California

vs

Worldwide Church of God Inc., a California corp, et al.

NATURE OF PROCEEDINGS.

1. Motion of defendant, Ralph K. Helge, in association with other attorneys for defendant to dismiss complaint for lack of jurisdiction

or

in the alternative, for a protective order that the deposition of defendant Ralph K. Helge not be taken

or

that it shall not be taken except by allowing written interrogatories

(third cont)

Matters submitted on August 7, Court now rules as follows:

1. Motion denied.

35 A

2. Motion of defendants, Worldwide Church of God, Inc., Ambassador College, Inc., Ambassador International Cultural Foundation, Inc., Herbert W. Armstrong, Stanley R. Rader, Ralph Helge, Gateway Publishing, Inc., Worldwide Advertising, Inc., and Henry Cornwall for judgment on the pleadings

2. Motion denied.

3. Notice of request of the above defendants for judicial notice in conjunction with motion for judgment on the pleadings

3. Judicial notice taken.

DEPT. 80

MINUTES ENTERED
Aug. 8, 1979
County Clerk

Superior Court Order, September 21, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Dated Sept. 21, 1979

Honorable T. T. Johnson, *Judge*

J. Schmuki, *Deputy Clerk*

L. Sartario, *Reporter*

C 267 607

The People of the State of California

vs

Worldwide Church of God, Inc.
a Cal Non-profit Corp, et al.,

Counsel for Plaintiff

George Deukmejian, Lawrence R. Tapper, James M. Cordi

Counsel for Defendant

William S. Abbey, L. Brainard, Allan, Gabriel, Allan Brown, Ralph Helge

NATURE OF PROCEEDINGS

Motion of plaintiff compelling further response to request to Henry Cornwall for production of documents

and

things

and

for inspection and copying

Superior Court Order, September 21, 1979

Motion of plaintiff compelling further response to request to Stanley R. Rader for production of documents and things and for inspection and copying.

Matters argued and submitted.

LATER:

Motion granted; produce all but Item #18 and any W-2 Forms requested, within 45 days.

Motion granted, produce all but numbers 21 and 24, and any W-2 Forms requested, at, or before, deposition set for 10:30 AM October 22, 1979.

MINUTES ENTERED
Sept. 21, 1979
County Clerk

Appendix E

Court of Appeal Judgment (2d Civ. No. 57445) October 4, 1979

ORDER

In the Court of Appeal of the State of California, Second Appellate District, Division Three.

Worldwide Church of God, Inc., a California corporation; Ambassador College, Inc., a California corporation; Ambassador International Cultural Foundation, a California corporation; Worldwide Advertising, Inc., a California corporation; Gateway Publishing, Inc., a California corporation; Herbert W. Armstrong; Stanley R. Rader; Henry Cornwall; and Ralph Helge, Petitioners, v. Superior Court of the State of California for the County of Los Angeles, Respondent, The People of the State of California, Real Party in Interest. 2d Civil No. 57445, (Super. Ct. No. C267607).

Filed: Oct. 4, 1979.

THE COURT:

The petition for writ of mandate, filed herein on September 28, 1979, has been read and considered. The petition is denied.

Superior Court, August 31, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Date August 31, 1979

Honorable T. T. Johnson, *Judge*

J. Sweet, *Deputy Clerk*

C 267 607

The People of the State of California

vs.

Worldwide Church of God, Inc., Etc., et al

Counsel for Plaintiff

George Deukmejian, Lawrence R. Tapper, James M. Cordi

Counsel for Defendant

William S. Abbey, L. Brainard, Ralph Helge, Allan Brown, Roy Brisbois

NATURE OF PROCEEDINGS

Motion of plaintiff for protective order under CCP 2019(b) and 2019(d)

and

for reasonable expenses including attorney's fees

In this matter, previously submitted August 29, 1979, the Court rules as follows:

Superior Court Order, August 31, 1979

Deposition of the witnesses Kuhn and Antion, is to resume at the convenience of counsel for the plaintiff and the witness.

The documents listed in Exhibit "A" of the Helge declaration filed herein 8-20-79, are to be utilized as follows: these numbers are to be made available for use by plaintiff at said deposition: (Kuhn) 1, 2, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 40, 85, 97, 277 through 298; (Antion) 41, 42, 43, 44, 45, 46, 48, 49, 139, 140, 141, 143, 144, 147, 157, 159, 164, 165, 167, 168, 169, 176, 177, 178, 179, 180, 181, 183, 299, 300, 301, 302; (Cole) 53, 54, 55, 184, 189, 191, 194, 202, 271, 272, 273, 274, 303, 304, 305;.

Within 30 days the following numbers are to be supplied this Court for examination "In Camera", prior to their possible use in a resumption of said deposition: (Kuhn) 3, 11, 18, 21, 31, 34, 49, 50, 51, 52, and 56 through 138 except for 85 and 97; (Antion) 170, 171, 172, 173, 174, 175, 182, 148, 149, 150, 151, 152, 153, 154, 155, 156, 158, 160, 161, 162, 163, 166, 142, 145, 146; (Cole) 185, 187, 190, 192, 193, 198, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 222, 223, 224, 225, 226, 227, 228, 230, 231, 232, 239, 243, 259, 265, 260, 265, 268, 270, 276.

MINUTES ENTERED

August 31, 1979
County Clerk

Appendix F

Court of Appeal Judgment (2d Civ. No. 57294) October 4, 1979

ORDER

In the Court of Appeal of the State of California, Second Appellate District, Division Three.

Worldwide Church of God, Inc., a California corporation; Ambassador College, Inc., a California corporation; Ambassador International Cultural Foundation, a California corporation; Worldwide Advertising, Inc., a California corporation; Gateway Publishing, Inc., a California corporation; Herbert W. Armstrong; Stanley R. Rader; Henry Cornwall; and Ralph Helge, Petitioners, v. Superior Court of the State of California for the County of Los Angeles, Respondent.

The People of the State of California, Real Party in Interest. 2d Civil No. 57294, (Super. Ct. No. C267607).

Filed: Oct. 4, 1979.

THE COURT:

The petition for writ of prohibition and/or mandate, filed herein on September 11, 1979, has been read and considered. The petition is denied.

Superior Court Order, August 8, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

DATE August 8, 1979

HONORABLE T. T. JOHNSON, *Judge*

J. SCHMUKI, *Deputy Clerk*

C 267 607

The People of the State of California,

vs

Worldwide Church of God, Inc., etc. et al.

NATURE OF PROCEEDINGS.

4. Motion of plaintiff for order holding Stanley Rader in contempt compelling S. R. Rader to appear for his deposition and for protective order

and

sanctions

Defendant Rader, ordered to appear for deposition 10:00 AM, on August 27, 1979, plaintiff's attorney's office, and to be deposed throught 12:00 Noon on August 28, 1979; any resumption to be set at later date by agreement.

Stay on defendant's discovery to September 21, 1979, except depositions of Chapman's on August 20 and 21, 1979, and of Justice on August 24, 1979.

5. Motion of defendants to dismiss complaint for lack of jurisdiction

or

in the alternative for a protective order that the deposition of defendant Henry F. Cornwall not be taken, or that it shall not be taken except by allowing written interrogatories

Motion denied.

Plaintiff to give notice.

Copy of this minute order mailed by the clerk by US Mail.

DEPT. 80

MINUTES ENTERED
[Aug. 8, 1979]
County Clerk

Superior Court Order, September 21, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Date Sept. 21, 1979

Honorable T. T. Johnson, *Judge*

J. Schmuki, *Deputy Clerk*

C 267 607

The People of the State of
California, ex rel, Alvin
Earl Timmons, et al.,

vs

Worldwide Church of God, Inc., et al.,

Counsel for Defendant

Ervin, Cohen and Jessup

NATURE OF PROCEEDINGS

Motion of defendants for order continuing
the deposition of Stanley R. Rader

Defendant, Rader, is ordered to appear for deposition at office of Attorney General's, Los Angeles, at 10:30 AM, October 22, 1979 and to give deposition continuing day to day and resume through to 4:30 PM on October 25, 1979, resumes at the time per witness to be resumed.

All discovery by defendants is stayed to hearing date of 11-26-79.

Superior Court Order, September 21, 1979

Attorney General counsel to give notice.

Copy of this minute order mailed by the clerk by USMail.

Continued to November 26, 1979 in Dept. 80 at 9:00 AM on court's own motion.

DEPT. 80

MINUTES ENTERED
Sept. 21, 1979
County Clerk

Superior Court Order, December 18, 1979

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

DATE December 18, 1979

HONORABLE THOMAS T. JOHNSON, *Judge*

G. REGALADO, *Deputy Clerk*

C 267607

THE PEOPLE OF THE STATE OF
CALIFORNIA, ET AL.
WORLDWIDE CHURCH OF GOD, INC., ET AL.

Counsel for Plaintiff

JAMES CORDI

Counsel for Defendant

ALLAN BROWNE
RALPH HELGE

NATURE OF PROCEEDINGS.

PROTECTIVE ORDER RE STAY OF DISCOVERY OF DEFENDANTS.

ON MATTER PREVIOUSLY TAKEN UNDER SUBMISSION ON DECEMBER 6, 1979 THE COURT MAKES THE FOLLOWING ORDER:

PLAINTIFF SHOULD NOTICE THE TAKING OF MR. HELGE'S DEPOSITION AND MR. HELGE SHOULD PARTICIPATE.

Superior Court Order, December 18, 1979

DISCOVERY BY ALL DEFENDANTS IS STAYED PENDING FURTHER ORDER OF COURT.
ANY DEFENDANT MAKING DISCOVERY MAY ADVISE COURT OF THAT FACT AND REQUEST MODIFICATION OF THIS ORDER.

PLAINTIFF TO DRAFT ORDER AND GIVE NOTICE.

A COPY OF THIS ORDER TO COUNSEL AS INDICATED ABOVE VIA U.S. MAIL THIS DATE.

DEPT. 80
MINUTES ENTERED
12-18-79
County Clerk

Appendix G

California Corporation Code § 9505

Supervision of Attorney General Where Property Held in Trust.—A non-profit corporation which holds property subject to any public or charitable trust is subject at all times to examination by the Attorney General, on behalf of the State, to ascertain the condition of its affairs and to what extent, if at all, it may fail to comply with trusts which it has assumed or may depart from the general purposes for which it is formed. In case of any such failure or departure the Attorney General shall institute, in the name of the State, the proceedings necessary to correct the noncompliance or departure.

Appendix H

California Nonprofit Religious Corporation Law § 9230

(effective Jan. 1, 1980)

Purposes: Protection of membership lists: Actions (a) Upon reasonable grounds to believe that the following condition or conditions have occurred or do exist, the Attorney General may, at reasonable times, examine a corporation to determine whether:

(1) The corporation fails to qualify as a religious corporation under this part; or

(2) There is or has been any fraudulent activity in connection with the corporation's property; or

(3) Any corporate property is or has been improperly diverted for the personal benefit of any person; or

(4) Property solicited and received from the general public, based on a representation that it would be used for a limited purpose other than general support of the corporation's religious activities, has been improperly used in a manner inconsistent with the stated purpose for which the property was solicited; or

(5) There has been a substantial diversion of corporate assets from stated corporate purposes.

(b) Such examination shall respect privileges enumerated in Division 8 (commencing with Section 900) of the Evidence Code and shall protect the confidential nature of membership lists by using such lists only in connection with the examination and any subsequent court proceeding. In addition, such examination shall not unnecessarily interfere with normal operations and religious observances of the corporation.

California Nonprofit Religious Corporation Law § 9230 (effective Jan. 1, 1980)

(c) The Attorney General may institute an action in the name of the state to enforce the right of examination set forth in subdivision (a).

(d) For reasonable cause, the Attorney General may institute an action in the name of the state:

(1) To establish that the corporation fails to qualify as a religious corporation under this part, and if a court so finds it shall enter an order that the corporation shall no longer operate as a religious corporation under this part.

(2) To correct any wrongful activity which has taken place in connection with or as a result of any condition or conditions set forth in paragraph (2), (3), (4) or (5) of subdivision (a).

Appendix I

Uniform Supervision of Trustees For Charitable Purposes Act § 12581

Charitable corporations and trustees to whom article applies. This article applies to all charitable corporations and trustees holding property for charitable purposes over which the State or the Attorney General has enforcement or supervisory powers.

Uniform Supervision of Trustees For Charitable Purposes Act § 12583

Trustees to whom article does not apply. This article does not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation sole or other religious corporation or organization which holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 19 of Division 3 of the Business and Professions Code, or to a charitable corporation organized and operated primarily as a religious organization, educational institution or hospital.

Appendix I-1

Notice of Filing of California Supreme Court Orders Denying Review of Judgments of Court of Appeal

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

Nov. 16, 1979

I have this day filed Order .....

.....

.....

.....

.....

HEARING DENIED

.....

.....

In re: 2 Civ. *No.* 57294

Worldwide Church of God

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

Nov. 16, 1979

I have this day filed Order .....

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HEARING DENIED

.....

.....

In re: 2 Civ. *No.* 57291

Worldwide Church of God

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

Appendix I-1—Notice of Filing of California Supreme Court Orders Denying Review of Judgments of Court of Appeal

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

Nov. 16, 1979

I have this day filed Order .....

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HEARING DENIED

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In re: 2 Civ. *No.* 57445

Worldwide Church of God

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

Nov. 16, 1979

I have this day filed Order .....

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HEARING DENIED

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.....

In re: 2 Civ. *No.* 57303

Armstrong

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

Appendix I-1—Notice of Filing of California Supreme Court Orders Denying Review of Judgments of Court of Appeal

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

Nov. 16, 1979

I have this day filed Order .....

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HEARING DENIED

.....

.....

In re: 2 Civ. *No.* 57290

Helge and Cornwall

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

Nov. 21, 1979

I have this day filed Order .....

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HEARING DENIED

.....

.....

In re: 2 Civ. *No.* 57640

Worldwide Church of God

vs.

Superior Court, Los Angeles

Respectfully,

G. E. BISHEL
Clerk

FILED
MAR 3 1980
MICHAEL RODAK, JR., CLERK

APPENDIX

(Appendices J to Z-2)

IN THE

Supreme Court of the United States

October Term, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., ET AL.,

Petitioners,

v.

STATE OF CALIFORNIA, ET AL.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT, DIVISION THREE

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Appendix J

Complaint (Filed January 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. .....

[TITLE OMITTED]

Plaintiff complains of defendants, and for a first cause of action against them alleges as follows:

First Cause of Action (for Accounting)

1. This action is brought by and on behalf of the People of the State of California, acting on the relation of the individuals named above.

2. Each of the relators is now and at all times pertinent to this action has been a member of the defendant Worldwide Church of God, Inc.; and each has tithed (i.e., given at least ten percent of his net income each year) to the Church for all or most of that time.

3. Defendants Worldwide Church of God, Inc.; Ambassador College, Inc.; and Ambassador International Cultural Foundation, Inc.; are each California corporations, organized and existing exclusively for charitable, religious and educational purposes. All have their principal offices at the same location in the City of Pasadena, County of Los Angeles; they have many officers and directors in common, and are under common control; and they are part of a single charitable, religious and educational organization

("the Church"). All of their funds, property and assets are derived from charitable contributions, and are held in public trust.

4. Plaintiff is informed and believes, and on that basis alleges, that each of the other defendant corporations is owned or controlled by one or more of the officers or directors of the Church, the College, or the Foundation, including particularly the defendant Stanley R. Rader; and that funds and property contributed to the Church are freely transferred among the Church and the other corporate defendants; and that the unity of record ownership and actual control among the Church and the other corporate defendants, and the course of dealing between them, has been for many years and is now such that for all purposes of this action, it would be unjust and inequitable to recognize any separate existence among them at all. The exact status and constitution of the other corporate defendants, and their precise relationship with the Church, are matters not known to plaintiff at this time, but are peculiarly within the knowledge of the defendants; but plaintiff will ask leave of the Court to amend this Complaint to show their true status and constitution, and the exact nature of their relations with the Church, when the same have been ascertained.

5. All of the individual named defendants are either officers, directors, or full-time employees of the Church or of one or more of the named corporate defendants, and all the acts herein complained of have been done with their knowledge and complicity, and under their supervision.

6. Defendants Herbert W. Armstrong and Stanley R. Rader are and at all times pertinent to this Complaint

have been in full and complete control of the Church and all its affairs. Herbert W. Armstrong is and has been ever since the formation of Worldwide Church of God, Inc., Pastor General of the Church, and Stanley R. Rader is Treasurer and General Counsel of the Worldwide Church of God, Inc. and both men are officers and directors of one or more of the named corporate defendants.

7. Plaintiff is informed and believes, and on that basis alleges, that each of the defendants DOE is, and at all times pertinent to this action has been, either the record owner of a substantial interest in, or a director or officer of, one or more of the corporate defendants, or an agent of the other defendants acting with respect to all the acts herein complained of within the course and scope of said agency. The true names and capacities of the said defendants DOE (whether individual, corporate, associate or otherwise) and the true nature of their relationship with the other defendants, is presently unknown to the plaintiff, but is peculiarly within the knowledge of the individual named defendants. Plaintiff will ask leave of the Court to amend this complaint to show the true names and capacities of the defendants DOE, and the true nature of their relationship, when the same have been ascertained.

8. The Church and its officers, and particularly the defendants Armstrong and Rader, are required by law to account to its members for all funds received, expended, or held by the Church. Notwithstanding this duty to account, and notwithstanding the fact that many of its members have frequently requested an accounting, the defendants have failed and refused, and still fail and refuse, to make any such accounting at all.

9. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the named individual defendants, acting in concert with and under the direction of defendants Armstrong and Rader, have been and are siphoning off the property and assets of the Church, and appropriating them to their own personal use and benefit, on a massive scale, amounting to several million dollars per year. Plaintiff is furthermore informed and believes, and therefore alleges, that said siphoning and misappropriation has resulted and continues to result in substantial fiscal deficits from operations of the Church which would otherwise have an excess of revenues over expenditures.

10. Because the named individual defendants are now, and at all times pertinent to this action have been in full, effective and exclusive control of all the property, assets, records and administrative facilities of the Church; and because they have consistently denied and still presently deny to all members of the Church meaningful access to the records aforesaid, plaintiff has no alternative but to make many of the allegations of this complaint on information and belief. Plaintiff will ask leave of the Court to amend this complaint in all pertinent respects when the particular facts concerning the actions complained of have been ascertained.

Plaintiff complains of defendants, and for a second cause of action against them alleges as follows:—

Second Cause of Action (for Removal of Existing Directors and Appointment of Properly Selected New Directors)

11. Paragraphs 1 through 10 of the First Cause of Action are incorporated by reference into and hereby made a part of this Second Cause of Action.

12. Defendants are required by law to hold regular meetings of the members of the defendant corporations, and to allow the members of said corporations to vote on various matters affecting the governance of the defendant Church, including the election of directors to the boards of directors of said corporations. Each of the defendant corporations is furthermore required to submit certain of its actions to the vote of the Board of Directors before taking such actions, all as provided by law.

13. The defendants have failed and refused, and still fail and refuse to call or hold any elections whatsoever among the members, or to allow the members of the defendant corporations to vote on any matter affecting Church governance of its business or financial affairs whatsoever. Moreover, pl intiff is informed and believes, and therefore alleges, that none of the directors of the aforesaid corporations actually votes on any matters affecting Church governance; but instead merely acquiesces in decisions and instructions made by the defendants Armstrong and Rader.

Plaintiff complains of defendants, and for a third cause of action against them alleges as follows:—

Third Cause of Action (Receiver)

14. Paragraphs 1 through 10 of the First Cause of Action, and Paragraphs 12 and 13 of the Second Cause of Action, are hereby incorporated by reference into and made a part of this Third Cause of Action.

15. Based on limited and sporadic statements issued by defendants to the membership of the Church, plaintiff is informed and believes, and on that basis alleges, that the Church receives approximately $70 million per year in

contributions, and that it has a net worth of approximately $80 million. Most of its net worth is held in the form of real estate.

16. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the Church spent and continues to spend at least $1 million more each year than it receives in contributions and, for that reason, and been forced to liquidate some of its holdings in order to defray its current expenditures. All the excess of expenditures over receipts is attributable to the individual defendants' pilfering of the revenues of the Church and their appropriation of its assets to their own personal use and benefit, which pilfering and appropriation continues to this very day on a massive scale. So long as the individual named defendants, and particularly defendants Herbert W. Armstrong and Stanley R. Rader remain in full, effective and exclusive control of the business affairs of the Church, they alone will continue in the future, as they have in the past, to determine the nature and extent of all its expenditures.

17. Plaintiff is informed and believes, and on that basis alleges: that during the last six months, as part of their program of appropriating the assets of the Church to their own use and in order to facilitate said appropriation, the individual defendants have been liquidating the properties of the Church on a massive scale; and that in Southern California alone, some fifty parcels of property belonging to the Church have been sold in the last six months, many of them at prices well below their market value.

18. Plaintiff is further informed and believes, and on that basis alleges: that one of the largest properties of the

Church is a 1600-acre parcel in Big Sandy, Texas, which includes a college campus and associated buildings, and which is worth $30 million; yet the individual defendants have caused the Church to enter into an agreement to sell the aforementioned parcel to a third party for approximately $10 million; and these defendants have attempted to conceal from the members of the Church the true worth of the Big Sandy property, and have instead published false statements, known by them to be false, to the effect that the property aforesaid is worth only about $8 million. All these statements and activities are part of their effort to convert the assets of the Church into a form in which they may be more easily appropriated to the personal use and benefit of the individual defendants.

18. Plaintiff is further informed and believes, and therefore alleges, that the individual named defendants, in an effort to frustrate discovery of their wrongdoing and to obscure the facts, have caused and are causing the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed; and that if said removal and destruction are allowed to continue, it may never be possible to develop a true and complete accounting of the Church finances during the time period complained of.

19. The appointment of a receiver pendente lite is necessary forthwith to prevent the continued appropriation of Church funds and assets to the personal use and benefit of the individual defendants; to halt the imminent and massive selling-off of valuable Church properties at prices well below their market value; and to prevent the further destruction of Church records; and to conduct an independent investigation of claims which the Church may have

against the individual named defendants and others, and thereafter to file and pursue such suits and actions on behalf of the Church as may be appropriate.

Plaintiff complains of defendants, and for a Fourth Cause of Action against them, alleges as follows:

Fourth Cause of Action (Injunctive Relief)

20. Paragraphs 1 through 10 of the First Cause of Action, 12 and 13 of the Second Cause of Action, and 15 through 19 of the Third Cause of Action, are hereby incorporated into and made a part of this Fourth Cause of Action.

21. The receiver will require access to the books and records, and to the administrative facilities, of the Church, in order to discharge his duties, and in order to protect and preserve the assets of the Church pendente lite; but the individual named defendants threaten to deny such access to any person other than themselves, and have demonstrated an intention to remove and destroy said books, records, and facilities, rather than to let any other person see them; and unless enjoined and restrained from doing so by this Court, they will do so, and will not yield up the said assets and records to the receiver.

22. The individual named defendants are engaged in an on-going program of liquidation of Church assets, and have already entered into agreements to sell many of said properties at prices well below their market value; and unless they and those with whom they deal are enjoined and restrained from doing so by this Court, they will sell, transfer, mortgage, and encumber said properties.

WHEREFORE PLAINTIFF PRAYS:

1. For an order requiring defendants to make a full and complete accounting to this Court and to the members of the Church of the affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., Ambassador International Cultural Foundation, Inc., Excelsior Leasing, Inc., Mid-Atlantic Leasing Inc., Wilshire Travel, Inc., Environmental Plastics, Inc., Gateway Publishing, Inc., Worldwide Advertising, Inc., and the accounting firm of Rader, Cornwall and Kessler, from at least January 1, 1975, or such earlier date as may be appropriate, through the date of said accounting.

2. For an order requiring an immediate election of new directors for Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., and requiring all of said new directors to be elected by the members of the Church according to the procedures prescribed by law.

3. For an order appointing a temporary receiver *ex parte,* and a Receiver *pendente lite* to take possession, until further order of this court, of all the property of the defendant corporations aforesaid, and of their books and records, and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property and assets wrongfully taken from the Church, and to prevent the further dissipation of Church property and assets, said power to include without limitation the power to bring lawsuits in the name of the Church or any of its affiliated organizations, and to retain independent accountants, lawyers, and

other professional assistants to assist him in the prosecution of such lawsuits.

4. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from interfering in any way with the actions of said receiver, and requiring them furthermore to yield up to said receiver all the books, records, and administrative facilities of said corporate defendants.

5. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from selling or mortgaging, or asserting ownership in any other way, over the property or assets of any of the corporate defendants, except as the court-appointed receiver may allow.

6. For costs of suit herein.

7. For such other and different or further relief as to this Court may seem just and proper.

Dated: 1/2/79

EVELLE YOUNGER,
Attorney General

LAWRENCE R. TAPPER,
Deputy Attorney General

By:

/s/ LAWRENCE R. TAPPER
Lawrence R. Tapper

HILLEL CHODOS,
HUGH JOHN GIBSON,
RAFAEL CHODOS,
COHN AND LIFLAND,
PETER PEARLMAN,

By:

/s/ HILLEL CHODOS
Hillel Chodos

Attorneys for Relators

Appendix J1

Second Amended Complaint (Filed July 30, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

AS A FIRST CAUSE OF ACTION FOR ACCOUNTING, PLAINTIFF ALLEGES:

1. George Deukmejian is the duly constituted Attorney General of the State of California, and as such is charged with the supervision of all charitable organizations within this state and with the supervision of trustees and fiduciaries who hold or control property in trust for charitable and eleemosynary purposes. This action was originally brought by and on behalf of the People of the State of California on the relation of individuals who had been granted leave to sue by the Attorney General. Its purpose is to correct the abuse of charitable trusts. The six individually designated relators have since withdrawn, and sole responsibility for the action now rests with the Attorney General.

2. Defendant Worldwide Church of God, Inc. (hereinafter the Church) is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Church was organized exclusively for charitable and religious purposes, and all of its assets are dedicated irrevocably to those purposes

such as are set forth in its articles of incorporation a copy of which is attached hereto and incorporated herein as Exhibit 1. At all times since its incorporation in 1934 it has been exempted from taxation by the State of California under Revenue and Taxation Code Section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

3. Defendant Ambassador College, Inc. (hereinafter the College), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The College was organized exclusively for educational (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes such as are set forth in its articles of incorporation, a copy of which is attached hereto and incorporated herein as Exhibit 2. At all times since its incorporation in April 1951 it has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

4. Defendant Ambassador International Cultural Foundation, Inc. (hereinafter Foundation), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Foundation was organized exclusively for cultural (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes, such as are set forth in its articles of incorporation, a copy of which is attached hereto and

incorporated herein as Exhibit 3. At all times since its incorporation in March 1975 the Foundation has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

5. By reason of the exemption from tax of the property of the Church and the College and the Foundation, as above alleged; and also by reason of the fact that all donations and contributions to the Church, the College and the Foundation have been deductible from income by the donors and contributors for purposes of computing their federal and state income taxes; plaintiff is informed and believes, and therefore alleges, that the Church, the College and the Foundation have enjoyed substantial public subsidies amounting over the last ten years to more than $150,000,000.

6. Defendants Stanley R. Rader, Herbert W. Armstrong, Ralph Helge, Henry Cornwall, Osamu Gotoh, Robert Kuhn, Raymond L. Wright, and Does 1 through 50 are and at all relevant times have been either officers, directors, or full-time employees of one or more of the above-named charitable entities (hereinafter referred to collectively as the Church, the College and the Foundation) or one or more of the following named for-profit defendants, or both. All of the acts herein complained of have been done with their knowledge and complicity, and under their supervision. In addition, each individual defendant is legally responsible for the act and omissions of his co-trustees.

7. Plaintiff is informed and believes, and on that basis alleges, that defendants Worldwide Advertising, Inc. and Gateway Publishing, Inc. are California corporations; that Does 51 through 100 are corporations, partnerships or other business entities; that Environmental Plastics, Inc. is a Texas corporation qualified to do business in California; that Rader, Cornwall, Kessler and Palazzo is an accounting firm formed either as a California professional corporation or a partnership; that Mid-Atlantic Leasing is a corporation or partnership; that Excelsior Leasing is a Pennsylvania corporation qualified to do business in California; that the above are hereinafter referred to collectively as the for-profit defendants. Plaintiff is informed and believes, and on that basis alleges, that each of the for-profit defendants is owned or controlled by one or more of the officers or directors of the Church, the College or the Foundation, including particularly the defendant Stanley R. Rader; that funds and property contributed to the charitable entities are freely transferred among them and the for-profit defendants; that financial and business records of the charitable entities have been and continue to be in the custody and possession of the for-profit defendants; and that the unity of record ownership and actual control among the charitable entities and the for-profit defendants, and the course of dealing between them, has been for many years and is now such that for all purposes of this accounting, it would be unjust and inequitable to recognize any separate existence among them at all. The exact status and constitution of the for-profit defendants, and their precise relationship with the charitable entities, are matters not known to plaintiff at this time, but are peculiarly within the knowledge of the defendants; and plaintiff will ask leave of the

Court to amend this Complaint to show their true status and constitution, and the exact nature of their relations with the charitable entities when the same have been ascertained.

8. The true names and capacities of defendants Doe (whether individual, corporate, associate or otherwise) and the true nature of their relationship with the other defendants, is presently unknown to the plaintiff, but is peculiarly within the knowledge of the individual named defendants. Plaintiff will ask leave of the Court to amend this complaint to show the true names and capacities of the defendants Doe, and the true name of their relationship, when the same have been ascertained.

9. Defendants Herbert W. Armstrong and Stanley R. Rader are and all times pertinent to this Complaint have been in full and complete control of the Church, the College, the Foundation, and all of their affairs. Herbert W. Armstrong is and has been Pastor General of the Church ever since its formation, and has been an officer and director of the College and Foundation as well as the Church at all times since their formation. Defendant Stanley R. Rader has acted as general counsel and chief financial adviser of the three entities for the past fifteen years, and for the past four years has acted and is presently acting in at least the following capacities: as director, executive vice-president, executive director, vice-president for financial affairs, secretary-treasurer and general counsel.

10. The Church, the College and the Foundation, as well as the individual named defendants (including Does 1-50), hold and are responsible for the assets of the three charitable entities, as trustees, subject to supervision by the Attorney General and ultimately by this court. The ultimate beneficiary in each instance is the public which benefits generally from all charitable endeavors. None of the defendants has or may legally have any proprietary interest in the assets and properties of the Church, the College or the Foundation, nor in their books and records.

11. The Church, the College, the Foundation and the individual named defendants as their officers and directors are required by law to account to the public and this court for all funds received, expended, or held by the three entities. Notwithstanding this duty to account, and repeated requests by plaintiff and members of the Church, these defendants have failed and refused, and still fail and refuse, to make any such accounting at all.

12. The need for an accounting by defendants in this case is particularly acute for each of the following reasons:

(a) Plaintiff is informed and believes, and on that basis alleges, that for a period exceeding ten years the individual and for-profit defendants (including Does 1-100), acting in concert with and under the direction of defendants Armstrong and Rader, have been and are siphoning off and diverting to their own use and benefit assets and properties of the Church, the College and the Foundation, on a massive scale increasing in the last several years to millions of dollars per year, and causing substantial fiscal deficits in their operation.

(b) Although much of the funding for the Church, the College and the Foundation is generated through contributions and other payments and tax subsidies

provided by the public as a whole, a major source of funds for the Church has come from tithing of its members. As Pastor General of the Worldwide Church of God, and as the self-proclaimed Ambassador of God on earth, Herbert W. Armstrong has directed all members of the Church to contribute the first ten percent (10%) of their gross income. Failure to do so, according to Armstrong's published disseminations to the members, is ". . . STEALING from GOD . . . and is SIN, which will cost you your SALVATION!" By reason of such representations and exhortations, a special fiduciary relationship has been created in which Mr. Armstrong, Mr. Rader and the other individual defendants owe the highest duty of accountability, not merely to the general public which is interested in preventing fraud, but also the members and former members who have not only given their money but have also placed their trust in the defendants to use it strictly for God's Work.

(c) In the solicitation of funds, defendant Armstrong has not always been candid. From time to time throughout the past ten years the Church has sent out special and urgent requests for contributions to be made at great personal sacrifices to the donors. Attached hereto and incorporated herein as Exhibit 4 is one such request dated March 30, 1970. The letter speaks of a "tight money situation" requiring cutbacks in Church salaries, publications and operating expenses in all departments of the Work"; it states that "God's Work" needs "IMMEDIATE CASH"; and on the suggestion of ". . . Mr. Rader, our legal counsel and financial adviser," members are asked to borrow whatever they can, so long as they do not lower the

income for the "Work" through the rest of the year. The true nature of the alleged fiscal emergency is exemplified by two purchase orders attached hereto and incorporated herein as Exhibit 5. Mr. Armstrong's letter of March 30, 1970, failed to disclose, among other pertinent facts, the purchase for his Pasadena residence of a $6,090.00 crystal candelabra on January 2, 1970, and French porcelain vases for $2.079.00 on March 31, 1970.

(d) In addition to the first 10% tithe (for God), and a second 10% tithe (to provide for the member's expenses at the annual Festivals), there is a third tithe imposed by the Church on its members consisting of ten percent (10%) of their gross income every third year. Throughout the past ten years this contribution has been expressly solicited as a special fund for widows and orphans. A trust has been imposed on these funds which requires that they be used only for such purposes. Plaintiff is informed and believes and thereupon alleges that an accounting has never been rendered of the receipt and disposition of these funds, and that they have been diverted to purposes other than those for which they were solicited and donated.

13. Because the named individual defendants are now, and at all times pertinent to this action have been in full, effective and exclusive control of all the property, assets, records and administrative facilities of the Church, the College and the Foundation; and because they have consistently denied and still presently deny meaningful access to such records by the Attorney General of the State of California, plaintiff has no alternative but to make many of the allegations of this complaint on information and

belief. Plaintiff will ask leave of the Court to amend this complaint in all pertinent respects when the particular facts concerning the actions complained of have been ascertained.

As a Second Cause of Action for Removal of Individual Defendants as Trustees, and for Injunction, Plaintiff Alleges:

14. Paragraphs 1 through 13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Second Cause of Action.

15. Plaintiff is informed and believes and thereupon alleges that defendant Herbert W. Armstrong is 86 years of age; that he has suffered a heart attack; that he no longer resides in California; and that he is not in daily control of the operations of the Church, the College or the Foundation. The exact nature and extent of his involvement and participation in the diversion of charitable funds hereinabove alleged, either at the present time or in the past, is currently unknown to plaintiff, but is peculiarly within the knowledge of the defendant Armstrong and the other defendants. Plaintiff will ask leave to amend his complaint to show the true facts when the same have been ascertained.

16. Plaintiff is further informed and believes, and thereupon alleges, that for all practical purposes, the financial affairs of the Church, the College and Foundation are now and have for some time been controlled by the defendants Stanley R. Rader, Osamu Gotoh, Ralph J. Helge, Robert Kuhn, Raymond L. Wright, and Henry Cornwall.

17. In addition to his official capacities described above in paragraph 9, Rader has claimed additional power and

authority since January 4, 1979 by reason of a directive purportedly issued on that day by the defendant Armstrong, a copy of which is attached herein and incorporated herein as Exhibit 6.

18. Since this action was filed in January 1979, defendants Rader and Helge have done everything within their power to deny plaintiff access, not only to the books and records of the Church, College and Foundation, but to individuals with knowledge of the operation and financial affairs of said charitable entities.

19. Plaintiff has been endeavoring since January 31, 1979, when this court first so ordered, to examine Rader under oath in deposition concerning his fiduciary relationship to the Church, College and Foundation, and the manner in which he has carried out his responsibilities. Rader failed and refused to appear until further ordered to do so on April 3 and 4, at which time he refused to answer proper questions, and ultimately announced unilaterally that he was leaving the deposition and would not participate any further therein. A copy of the transcript of Rader's deposition is being lodged with this court in connection with plaintiff's Motion to Compel Discovery, and is hereby incorporated by reference and made a part of this complaint.

20. By reason of each and all of their acts and omissions hereinabove related, the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge have failed and refused to comply with the trust which they have assumed; each of them has departed and caused the Church, College and Foundation to depart from the charitable purposes he

and they were bound to serve; and each of said defendants should be removed from all responsibility in connection with the Church, College and Foundation.

21. Further, plaintiff is informed and believes, and therefore alleges that the said defendants have caused the Church, College and Foundation to enter into various purported contracts of employment and other contracts with each of the said trustees, providing for compensation and reimbursement of expenses. Plaintiff alleges that all of said contracts were entered into by the Church, College and Foundation without sufficient consideration and under undue influence, and without proper corporate authority; and alleges that each of said contracts should be cancelled and determined to be null and void. A copy of the Employment Contract of Stanley R. Rader dated July 30, 1976 is attached hereto, marked Exhibit 7, and is incorporated herein by this reference.

22. Plaintiff further alleges that each of the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge should be perpetually enjoined and restrained from serving as officers or directors, or any other capacity, with respect to the Church, College or Foundation or any other California charitable or trust or organization.

As a Third Cause of Action for Orders Requiring Compliance by the Church, College and Foundation With California Law Pertaining to Nonprofit Corporations Organized for Charitable Purposes, or for Other Appropriate Relief, Plaintiff Alleges:

23. Paragraphs 1 through 13 of the First Cause of Action, and paragraphs 15 through 22 of the Second Cause

of Action, are hereby incorporated by reference into and hereby made a part of this Third Cause of Action.

24. By virtue of the facts hereinabove alleged, the defendant charitable entities have claimed the benefits of incorporation as nonprofit corporations organized for charitable purposes under the laws of the State of California which benefits include among others the substantial tax subsidies and exemptions hereinabove referred to; but the said charitable entities have failed in numerous respects to comply their obligations under said laws, as follows:

(a) Claiming that their organization is "hierarchical," the charitable entities have never been subject to the governance of any board of directors, board of trustees or other independent body, authorized and empowered to supervise and preserve charitable funds collected and held by them as required by law;

(b) Notwithstanding that the bylaws adopted by the charitable entities called for a vote of the members on numerous matters of importance, including amendment to the articles and bylaws, disfellowshipment of members and other matters, no member of said charitable entities has ever voted or been permitted or requested to vote on any matter and no vote of the members has ever been held on any subject. In this connection, plaintiff is informed and believes, and thereupon alleges, that although statements were filed with the Secretary of State reflecting a purported vote of the membership on certain amendments to articles of incorporation of the defendant Church, no such vote and no such election was ever held, as the defendants herein are well aware.

(c) The defendants have taken the position that their bylaws may be altered or entirely disregarded whenever it suits their purposes, since said bylaws are "viewed only as guidelines, which are subject to spiritual interpretations (by defendants) and are subordinate to the higher law of God." A copy of the Declaration of defendant Helge, dated January 11, 1979 and filed with this court on or about January 12, 1979, is attached hereto as Exhibit 8 and is hereby incorporated by reference and made a part of this complaint.

(d) Claiming that all decisions of the defendants Armstrong and Rader are "religious" or "spiritual," including all decisions affecting the disposition of charitable trust funds collected and held by the Church, College and Foundation, defendants have taken the position that all of their financial decisions and expenditures, including the disposition of funds for their personal use and benefit, is protected and exempted from review or scrutiny by anyone, including this court, by virtue of the First Amendment; and have thereby claimed and continue to claim that they are entitled to dispose of charitable funds as they please.

25. The defendants Church, College and Foundation should be required by this court to comply with their obligations under the laws of the State of California pertaining to nonprofit corporations organized for charitable purposes in all respects, including among others the following: (a) The Church, College and Foundation should be required to select a board of directors, board of trustees, or other board authorized and empowered to oversee and supervise its financial affairs (as distinguished from its

ecclesiastical or spiritual affairs), in such manner as to provide reasonable assurance that the charitable trust funds collected and held by such charitable entities will be applied solely to the charitable uses to which they were donated, and will not be diverted or misapplied for the personal benefit of any individual, or for any other improper purposes; (b) The Church, College and Foundation should be required to take such steps as may be necessary or appropriate to keep and maintain proper records of their financial and business transactions, and to prepare and cause to be rendered periodic accountings of their financial and business affairs as required by law; (c) The Church, College and the Foundation should be required to take such steps as may be necessary or appropriate to prevent the dissipation of charitable trust funds in the future, and to recover such charitable trust funds as have previously been allowed by them to be dissipated or diverted by improper purposes.

26. If and to the extent the Church, College and Foundation cannot be made to comply with their legal obligations in exchange for obtaining the benefits of their status as charitable California corporations, the court should make such other orders and grant such other relief as may be necessary or appropriate under the circumstances to preserve the charitable funds which have been accumulated by them, and which are presently entrusted to their care and custody.

As a Fourth Cause of Action for Receiver, Plaintiff Alleges:

27. Paragraphs 1 through 13 of the First Cause of Action and Paragraphs 15 through 22 of the Second Cause

of Action and Paragraphs 24 through 26 of the Third Cause of Action, are hereby incorporated by reference into and made a part of this Fourth Cause of Action.

28. Based on limited and sporadic statements issued by defendants to the membership of the charitable entities, plaintiff is informed and believes, and on that basis alleges, that they receive approximately $70 million per year in contributions, and that they have a net worth of approximately $80 million. Most of their net worth is held in the form of real estate.

29. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the charitable entities have spent and continue to spend at least $1 million more each year than they receive in contributions and, for that reason, have been forced to liquidate some of their holdings in order to defray their current expenditures. All the excess of expenditures over receipts is attributable to the individual defendants' pilfering of the revenues of the charitable entities and their misappropriation of charitable assets to their own personal use and benefit, which pilfering and misappropriation continues to this very day on a massive scale. So long as the individual named defendants remain in full, effective and exclusive control of the business affairs of the charitable entities, they alone will continue in the future, as they have in the past, to determine the nature and extent of all their expenditures.

30. Plaintiff is informed and believes, and on that basis alleges that during the last six months, as part of their program of misappropriating the assets of the charitable

entities to their own use and in order to facilitate said misappropriation, the individual defendants have been liquidating the properties of the charitable entities on a massive scale; and that in Southern California alone, over twenty parcels of property belonging to one or more charitable entities have been sold in the last year, many of them at prices well below their market value.

31. Plaintiff is further informed and believes, and on that basis alleges that one of the largest properties of the College is a 1600-acre parcel in Big Sandy, Texas, which is worth substantially in excess of $10.6 million; yet the individual defendants have been attempting to sell the aforementioned parcel to a third party for approximately $10.6 million; and these defendants have attempted to conceal the true worth of the Big Sandy property, and have instead published false statements, known by them to be false, to the effect that the property aforesaid is worth only about $8 million. All these statements and activities are part of their effort to convert the assets of one or more of the charitable entities into a form in which they may be more easily appropriated to the personal use and benefit of the individual defendants. Further, plaintiff is informed and believes that the defendants have established no procedures or safeguards to ensure that the proceeds of sale of the Big Sandy property, which belong to the College and which ought to be used exclusively for charitable and educational purposes, will be applied to that charitable use; but instead, defendants have announced publicly their intention to "get out of the college business," and to divert the proceeds of said sale to the Church and the Foundation, and to uses other than those for which they are entrusted.

32. Plaintiff is further informed and believes, and thereupon alleges, that the individual named defendants, in an effort to frustrate discovery of their wrongdoing and to obscure the facts, have caused and are causing the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed; and that if said removal and destruction are allowed to continue, it may never be possible to develop a true and complete accounting of the finances of the charitable entities during the time period complained of.

33. Since this action was commenced on January 2, 1979, and after a receiver was appointed herein, the individual defendants have pursued a course of conduct designed to divert donations, funds and assets of the charitable entities to themselves at Tucson, Arizona and elsewhere; and thereafter to apply said funds for their personal use and benefit in various ways, including the appointment of numerous firms of attorneys to represent their personal interest while ostensively acting as counsel for the charitable entities. In this regard, the individual defendants have purported to effect an amendment to the bylaws since the commencement of this action, granting them alleged indemnification for their legal expenses, not only in connection with the instant action and any other civil action which has been instituted by them or against them in the state and federal courts, but also for any expenses they may incur in defending against criminal charges arising out of crimes or alleged crimes committed by them against the charitable entities (as set forth at pages 11 and 12 of the purported bylaws attached to the Declaration of Helge, Exhibit 8 to this complaint). Plaintiff is

further informed and believes, and thereupon alleges that the defendants have already paid or incurred legal expenses in connection with the present action and related litigation of nearly $1 million, all of which they have paid or intend to pay out of charitable funds properly the property of the charitable entitities herein.

34. The appointment of receiver pendente lite for the charitable entities is necessary forthwith to prevent the continued misappropriation of charitable funds and assets to the personal use and benefit of the individual defendants; to halt the imminent and massive selling-off of valuable properties at prices well below their market value; and to prevent the further destruction of financial and business records of the charitable entities and to conduct an independent investigation of claims which the charitable entities may have against the individual named defendants and others, and thereafter to file and pursue such suits and actions on behalf of the charitable entities as may be appropriate.

As a Fifth Cause of Action for Injunctive Relief Plaintiff Alleges:

35. Paragraphs 1 through 13 of the First Cause of Action, 15 through 22 of the Second Cause of Action, 24 through 26 of the Third Cause of Action, and 28 through 33 of the Fourth Cause of Action are hereby incorporated into and made a part of this Fifth Cause of Action.

36. The Receiver will require access to the books and records, and to the administrative facilities, of the charitable entities in order to discharge his duties, and in order to protect and preserve their assets pendente lite; but the

individual named defendants threaten to deny such access to any person other than themselves, and have demonstrated an intention to remove and destroy said books, records, and facilities, rather than to let any other person see them; and unless enjoined and restrained from doing so by this Court, they will do so, and will not yield up the said assets and records to the receiver.

37. The individual named defendants are engaged in an on-going program of liquidation of charitable assets, and have already entered into agreements to sell many of said properties at prices well below their market value; and unless they and those with whom they deal are enjoined and restrained from doing so by this Court, they will sell, transfer, mortgage, and encumber said properties without providing any safeguards for their preservation and use for the charitable purposes impressed on such assets.

As a Sixth Cause of Action for Accounting Against Defendant Rader, Cornwall, Kessler and Palazzo, Plaintiff Alleges:

37. Paragraphs 1-13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Sixth Cause of Action.

38. Plaintiff is informed and believes and on that basis alleges, that at all times relevant to this complaint, defendants Rader and Cornwall held the beneficial ownership of a majority of, and exercised actual control over, defendant Rader, Cornwall, Kessler and Palazzo, which, until recently was known as Rader, Cornwall and Kessler.

39. Plaintiff is informed and believes and upon that basis alleges that at all times relevant to this complaint

defendant Rader, Cornwall, Kessler and Palazzo acted as the outside accountants for the charitable entities; and in such capacity produced certified financial statements for Worldwide Church of God and Ambassador College, in which they rendered opinions as certified public accountants that such financial statements presented fairly the financial positions of those corporations. Plaintiff is informed and believes and on that basis alleges that as accountants for the charitable entities, defendant Rader, Cornwall, Kessler and Palazzo held a fiduciary position of great trust and confidence vis à vis such charitable entities in the course of which Rader, Cornwall, Kessler and Palazzo rendered financial advice to the management of such charitable entities. In addition plaintiff is informed and believes and on that basis alleges that at all times relevant to this complaint Rader was intimately involved with the management of the charitable entities as personal financial advisor to defendant Herbert W. Armstrong and as attorney for the charitable entities. As a consequence of its assumption of such fiduciary position defendant Rader, Cornwall, Kessler and Palazzo and its partners or shareholders were bound to avoid transactions in which their personal financial interests would conflict with those of the charitable entities.

40. Plaintiff is informed and believes and on that basis alleges that defendants Rader and Cornwall used their positions of trust and confidence with the charitable entities to divert assets of those entities to their benefit, in an amount unknown to plaintiff, by devising, recommending and implementing unfair and fraudulent business transactions between the charitable entities and themselves personally, or between the charitable entities and various of the for-profit defendants in which either or both of them

had ownership interests, or from which they otherwise derived financial benefit, which transactions resulted in personal profit to Rader and/or Cornwall. Plaintiff is informed and believes and on that basis alleges that Rader and Cornwall accomplished the said diversions of charitable assets while acting or purporting to act for and on behalf of defendant Rader, Cornwall, Kessler and Palazzo as partners and/or members thereof.

41. The full nature and extent of the dealings between defendant Rader, Cornwall, Kessler and Palazzo and the charitable entities are not now known to plaintiff, but are peculiarly within the knowledge of defendants. Plaintiff will ask leave of court to amend this complaint to show the exact nature and extent of such dealings when the same have been ascertained.

42. Rader, Cornwall, Kessler and Palazzo are legally required to account to plaintiff for all of the said dealings, and transactions between itself and/or its partners, and the charitable entities, and may be surcharged and held liable for any breaches of trust or diversions of charitable assets resulting from such dealings or transactions.

WHEREFORE PLAINTIFF PRAYS:

1. For an order requiring defendants to make a full and complete accounting to this Court of the affairs of the defendant charitable entities from January 1, 1975 through the date of said accounting; and for a further accounting of the third tithe, and of all transactions between any of the defendant charitable entities and any of the individual defendants or the defendant for-profit entities, from January 1, 1970 through the date of said accounting;

2. For an order removing the defendants Rader, Gotoh, Kuhn, Wright, Cornwall, and Helge from holding any office or employment in or under the defendant charitable entities, and cancelling and nullifying any contracts of employment which may have heretofore been entered between them and said entities and further enjoining and restraining said defendants from holding any office of employment under the said charitable entities in the future, or in or under any California charitable corporation trust or charitable organization;

3. For an order directing the defendants Worldwide Church of God, Ambassador College, Inc., and Ambassador International Cultural Foundation to comply with their obligations under the laws of the State of California pertaining to nonprofit organizations organized for charitable purposes; and in the event of their failure so to comply, for such additional equitable relief as may be necessary, appropriate or requisite in the premises to secure the preservation and proper application of the charitable funds presently in their possession and under their control;

4. For an order appointing a receiver pendente lite to take possession, until further order of this Court, of all the property of the defendant charitable entities aforesaid, and of their books and records, and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property and assets wrongfully taken from them, and to prevent the further dissipation of charitable property and assets, said power to include without limitation the power to bring lawsuits in the name of the charitable entities, and to retain independent accountants, lawyers, and other professional assistants to assist him in the prosecution of such lawsuits;

5. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from interfering in any way with the actions of said receiver, and requiring them furthermore to yield up to said receiver all the books, records, and administrative facilities of said charitable entities;

6. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concern with them, from selling or mortgaging, or asserting ownership in any other way, over the property or assets of any of the charitable entities, except as the court-appointed receiver may allow;

7. For costs of suit herein;

8. For such other and different or further relief as to this Court may seem just and proper.

DATED: .....

GEORGE DEUKMEJIAN, *Attorney General*
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General

By .....
JAMES M. CORDI
Deputy Attorney General

Attorneys for Plaintiff.

Appendix K

Ex Parte Temporary Receivership Order (Filed January 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C267607

[TITLE OMITTED]

Upon reading and considering the verified complaint on file herein, and the Ex Parte Application for Temporary Restraining Order, etc. and supporting Memorandum and Declarations; and good cause appearing therefor, IT IS HEREBY ORDERED AS FOLLOWS:

1. The defendants and each of them, are hereby ordered to appear before this Court in Department 85, at 111 North Hill Street, Los Angeles, California 90012, at 9:00 a.m., on January 10, 1979, then and there to show cause why:

(a) The Honorable Steven S. Weisman, a retired Judge of this Court, should not be appointed as receiver *pendente lite,* to take possession, until further order of this Court, of all of the property of defendants Worldwide Church of God, Inc. and its associated corporations (as identified in the complaint on file herein), and of all their books and records; and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property or assets wrongfully taken from the Church, and to prevent the further dissipation of Church property and assets, said power to

include without limitation the power to bring lawsuits in the name of the Church or any of its affiliated organizations, and to retain independent accountants, lawyers, and other professional assistants to assist him the prosecution of such lawsuits;

(b) An injunction *pendente lite* should not issue, restraining the defendants, their agents, employees, and all persons acting in concert with them, during the pendency of the action, from interfering in any way with the actions of said receiver, and from withholding from him any of the funds, assets, books, records, or administrative facilities of the corporate defendants; and further enjoining and restraining the individual defendants and each of them, their agents, employees, and all persons acting in concert with them from selling, mortgaging, transferring, disposing, or asserting ownership in any other way, over the property or assets of any of the corporate defendants, except with the written consent of the receiver or with leave of Court.

2. Pending the hearing on said Order to Show Cause, the said Steven S. Weisman is hereby appointed forthwith as a temporary receiver, and upon qualifying and posting a bond pursuant to C.C.P. §567 in the sum of $10,000.00, he is authorized to act pending the hearing on said order to show cause, and to take possession forthwith of all of the funds, assets, and property, and all of the books and records, of the corporate defendants named in the complaint on file herein, viz: Worldwide Church of God, Inc., a California corporation; Ambassador College, Inc. a California corporation; Ambassador International Cultural Foundation, Inc., a California corporation; and empowering said receiver to take such actions pending the hearing

and said order to show cause as he deems, in the reasonable exercise of his discretion, appropriate to preserve and protect the funds and assets of the Church and its associated corporations from dissipation, misappropriation, or other improper diversion; and

3. Pending the hearing on said Order to Show Cause, the defendants and each of them, and their agents, employees, and all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the said corporations; and are further temporarily enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the Church or its associated corporations.

4. No bond need be posted herein by plaintiff.

5. A copy of this order, together with a copy of the *ex parte* application and all supporting papers and of the verified complaint, shall be served on each of the defendants no later than 5:00 p.m. on January 4, 1979.

Dated: 1/2/79

/s/ PACHT
JUDGE OF THE SUPERIOR COURT

Appendix L

Order Approving Actions of Receiver (Filed January 17, 1979)

Law Offices of
MICHAEL J. CLEMENS
Wilshire-Doheny Plaza—Wert Tower
9100 Wilshire Boulevard, Suite 955
Beverly Hills, California 90212
(213) 272-2588 and 276-1169
Attorney for Receiver

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

[TITLE OMITTED]

On reading the verified application of Judge Steven S. Weisman, Received in this proceeding, for an Order approving said Receiver's January 15, 1979 action whereby he stopped and recalled the attempted mailing to approximately sixty-thousand (60,000) members of the Worldwide Church of God of Defendant Herbert W. Armstrong's letter dated January 14, 1979, the Law Offices of Michael J. Clemens, by Michael J. Clemens, Esq., appearing for the Receiver, and the Law Firm of Ervin, Cohen and Jessup, by Allan B. Cooper, Esq., appearing for the Defendants, and the Court having considered the record and files in this matter, the aforesaid Application and the Exhibits attached thereto, and having heard the arguments of counsel and being fully advised in the premises, finds as follows:

1. That those portions of Defendant Herbert W. Armstrong's letter of January 14, 1979 which specifically relate

to the members or prospective donors of the Worldwide Church of God making their monetary donations payable to said Defendant Herbert W. Armstrong personally and directing them to mail said donations to said Defendant Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona, are in direct contravention and violation of the intent, spirit and provisions of the pronounced order of this Court orally issued on January 12, 1979, whereby, *inter alia*, the Defendants, and each of them and their agents and employees acting in concern with them, were enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties or from withholding from him any of the assets of the Church.

2. That it is admitted by the Defendants that the Church receives at its World Headquarters, Pasadena, California, donations from contributors which amount to approximately seventy million dollars ($70,000,000.00) each year and that said contributions constitute the major asset of the Church.

3. That said Receiver acted correctly and efficiently in the performance of his duties of protecting and preserving the financial assets of the Church by stopping and recalling the mailing of said letter of Herbert W. Armstrong which called for contributions to be made payable to Herbert W. Armstrong personally and directing them to be mailed to Mr. Herbert W. Armstrong, c/o General Delivery, Tucson, Arizona.

IT IS ORDERED that the application of Receiver is granted and the action of the Receiver, which resulted in the stoppage and the recall of the mailing of Defendant Herbert

W. Armstrong's letter of January 14, 1979, is hereby approved and ratified.

IT IS FURTHER ORDERED that in addition and supplementary to the previous order of this Court, and until there has been a final disposition of the matter by trial and a Judgment of the Trial Court, the Defendants, and each of them and all their agents, employees and all persons acting in concert with them, are hereby enjoined and restrained from diverting, or attempting to divert, the sending of contributions to the Church's World Headquarters in Pasadena, California, and are further restrained and enjoined from soliciting or causing Church contributions to be made payable to anyone other than to the Worldwide Church of God or to be mailed to any location other than to said Worldwide Church of God, either at its World Headquarters in Pasadena, California, or to any of said Church's various branches throughout the world. It is the intent of this Order to ensure that the solicitation of Church contributions and the receipt thereof by the Worldwide Church of God shall continue in the same fiscal manner as existed prior to the ex parte appointment of the Receiver herein.

Dated: January 16, 1979.

/s/ JULIUS M. TITLE
Judge of the Superior Court

Appendix M

Order Appointing Receiver *Pendente Lite* (Filed January 19, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

The order to show cause re receiver and injunction pendente lite in the above-entitled cause came on for hearing in Department 3 of the above-entitled Court on January 10, 1979, before the undersigned. Plaintiffs and relators were represented by: Lawrence R. Tapper, Deputy Attorney General; Hillel Chodos; Hugh John Gibson; and Rafael Chodos, Esqs.; and defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Esq. After full consideration of the moving and responding papers filed in the matter, and after consideration of additional evidence and argument both oral and documentary presented at the hearing, and after due consideration of all matters presented, the Court makes the following Order:

ORDER

1. *Prior Orders Superseded.* All prior orders regarding the appointment of the receiver, and all prior injunctions and restraining orders, are hereby vacated and dissolved, and superseded by this Order.

2. *Receiver Appointed Pendente Lite.* Steven S. Weisman, a retired Judge of the Superior Court, heretofore

appointed *ex parte* as temporary Receiver, is hereby appointed Receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc. (hereafter referred to collectively, except where the context otherwise indicates, as "the Church"), to carry out the duties which are specified in this Order; and his original Oath and Bond, filed herein on January 2, 1979, shall continue to stand until further order of Court.

3. *Assetts and Property.* The Receiver is to take possession and control of the Church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided in this Order.

4. *Church to Continue to Function.* In spite of this order of possession, it is further ordered that all the authorized employees of the Church shall be permitted to continue to carry out their duties and to continue all activities and operations of the Church. The Receiver nevertheless shall have the right and power to supervise and monitor all of the business and financial operations and activities of the Church; however, he shall not interfere therein unless he determines, in the sound exercise of his sole discretion, that such interference is necessary to avoid damage or loss to the Church of any kind. And if he does so determine, then he shall have the right to take over management and control of the Church to whatever extent that he, in the sound exercise of his sole discretion, deems necessary.

5. *Assistants.* The Receiver is empowered to hire, employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts to assist him in the discharge of his duties pursuant to this Order; and he is authorized to pay reasonable compensation to all his assistants out of the funds and assets of the Church, subject to the supervision of this Court as hereafter provided.

6. *Records.* The Receiver is to take immediate possession of all books and records of the Church, no matter where or in whose possession said records may be found. These records are to include without limitation journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, computer-readable data, and membership lists. These books and records shall be made available for the use of the employees of the Church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action, for use in preparing for the trial in this action.

7. *Operations.* The Receiver is to supervise and control all the business and financial operations of the Church, including both ordinary day-to-day operations, and extraordinary operations. And while it is ordered that the Receiver shall not interfere with the normal business and financial operations of the Church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere; to that extent he will have the right, and it is hereby ordered, that the Receiver has the right to take over any portion of the operation of the business and financial affairs of the Church that he deems necessary in order to protect the Church and its assets.

8. *Termination of Employees.* Except as is otherwise provided herein with respect to Messrs. Herbert W. Armstrong and Stanley Rader, the Receiver is hereby authorized to suspend or terminate, as he in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the Church (subject to any contractual employment rights the suspended or terminated party may have), and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the Church from and after the date of such termination or suspension.

9. *Messrs. Armstrong and Rader.* Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the Church unless and until they are, either of them, removed by proper action of the Church pursuant to its By-laws and Articles; or unless they are removed by further order of this Court pursuant to an application on the part of the Receiver. If the Receiver deems it necessary at any time hereafter pending the trial to move the Court to remove either Mr. Armstrong or Mr. Rader or both, the Receiver may file a petition with the Court on notice to the defendants, and the Court will hear the matter and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the Court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment by the Church, shall only be in such amounts as may be determined by the Receiver in his discretion from time to time.

10. *Non-Interference By Receiver in Ecclesiastical Affairs.* It is not the purpose or intention of this Order to allow the Receiver to interfere in any way with the ecclesiastical functions of the Church (as distinguished from the College or the Foundation); and he shall not do so. This Receivership concerns itself exclusively with the financial and business affairs of the Church. The ecclesiastical affairs of the Church shall continue to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the Receiver to terminate or suspend persons from employment pursuant to Paragraph 7 above, such termination or suspension shall in no way affect their membership or standing in the Church.

11. *Disputes as to whether a given matter is ecclesiastical.* In the event of any dispute between the Receiver and the ecclesiastical authorities of the Church (as opposed to the College or the Foundation) over whether or not a particular matter is ecclesiastical, the authorities aforesaid are authorized to employ counsel to apply to this Court for a resolution of said dispute; and said counsel may thereafter apply for reasonable compensation from the Church funds pursuant to Court order.

12. *Accounting of Church Affairs.* The Receiver is authorized and instructed to employ, to the extent necessary, accountants, auditors, and attorneys to conduct a thorough audit of the financial and business dealings of the Church; and to compensate said professional assistants out of the Church treasury, subject to supervision by this Court as hereafter provided. Moreover, the Receiver is to review all allegations of malfeasance and neglect concerning the

financial and business affairs of the Church, and to apply to this Court where appropriate for leave to sue on behalf of the Church for suitable relief.

13. *Funds.* It shall not be necessary for the Receiver initially to take possession of, nor to deposit in any special Receiver's account, the funds of the Church now or hereafter received by the Church; but the Receiver shall supervise the deposits and disbursements of the funds by the Church in accordance with the terms of this Order. The funds of the Church shall continue to be handled by its employees in the same manner and with the same bookkeeping, accounting and disbursement procedures as were in effect at the time of the commencement of the *ex parte* receivership, subject to the supervision of the Receiver. But in any event, the Receiver shall have the right, in the sound exercise of his sole discretion and at any time, to take possession and control of the funds of the Church forthwith by notification to the Court and to the defendants, and to deposit them in a special Receiver's account, if he deems it necessary.

14. *Sale of Big Sandy.* Unless the Receiver files a motion with the Court within ten days after the date of this Order opposing the sale of Big Sandy for good cause, that sale shall go forward as a cash sale for $10.6 million, all funds payable directly to the Church.

15. *Supervision by the Court of receivership expenses.* The Court hereby approves and ratifies the transfer by the Receive of $50,000.00 to a special Receiver's account, and the payment therefrom by him of sums for security guard

service, locksmith service, and accountants, and the payment to himself and his attorney of $1000.00 each on account of fees.

As soon as reasonably practicable, the Receiver shall present a petition to this Court outlining the nature and extent of the expenditures he anticipates have been or will be necessary for the discharge of those of his duties herein which are peculiar to this receivership, and he shall seek approval or ratification of this Court to incur and pay such expenditures. Pending the presentation and determination of said petition, the Receiver is authorized to incur and pay such expenses as in his discretion are necessary or expedient to the immediate discharge of his duties.

The Receiver shall not be required to seek advance approval of this Court for expenditures associated with the day-to-day operations of the Church.

16. *Attorneys' Fees to Be Approved by the Court.* Pursuant to representations made to this Court by counsel for defendants on January 10, 1979, and on January 16, 1979, this Court hereby approves the payment on January 9, 1979 of $30,000.00 out of Church funds to Ervin, Cohen and Jessup, and the payment on the same date of $6000.00 out of Church funds to Coombs, Gittler and Hauser, for services allegedly rendered by those law firms to certain of the individual and corporate defendants for whom they have appeared of record herein; provided however that said approval is without prejudice to subsequent review by the Court, upon its own motion or upon the application of an interested party, to review the reasonableness and propriety of said payments, and to direct that all or a portion of said sums be returned to the Church, either by the said law firms, or by one or more of the individual defendants.

Appendix M—Order Appointing Receiver Pendente Lite

The remainder of attorneys' fees received by said firms on January 9, 1979 (i.e. the remaining $20,000.00 paid to Ervin, Cohen and Jessup, and the remaining $4000.00 paid to Coombs, Gittler and Hauser) are to be repaid to the Receiver forthwith.

Except as provided in the foregoing, no further attorney's fees or legal fees shall be paid out of Church funds in connection with this litigation except after proper application to and approval by this Court. This prohibition shall extend to payment of attorney's fees to attorneys representing the plaintiff, the relators, the defendants or any of them, or the Receiver.

INJUNCTION

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, and all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the Receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the Church; and are further enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the Church or its associated corporations.

Dated: January 19, 1979

JULIUS M. TITLE
Judge of the Superior Court

Appendix N

Order Dissolving Receivership and Injunctive Order (Filed March 2, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

The order to show cause re continuation of the receivership in the above-entitled matter came on for hearing in Department 48 of the above-entitled Court on February 21, 1979, at 10:00 A.M., before the undersigned. Plaintiffs and relators were represented by Lawrence Tapper, Hillel Chodos, and Rafael Chodos, Esq. Defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Ellis Horvitz, David Harney and Marshall Morgan, Esqs.

Defendants have moved this Court to dissolve the receivership, asserting that the purposes and objectives of the receivership in examining the financial affairs and protecting the assets can be achieved successfully through the medium of that they will comply. Accordingly, and upon the application of defendants, in order to afford them an opportunity to permit them accomplishment of the said purposes and objectives without a receivership; and in order to preserve and protect the assets of the defendant nonprofit corporations, and to ensure that the Attorney General's financial review shall be completed as soon as is practicable; and after full consideration of the moving and responding papers filed in the matter, and of the additional evidence presented at the hearing; and after argu-

ment and due consideration of all matters presented; the Court hereby orders as follows:

ORDERS

1. *Receivership Dissolved.* The receivership is hereby ordered dissolved, and the activities of the Receiver shall terminate forthwith; but the dissolution shall be stayed until the completion of the Receiver's final accounting. Possession and control of all the property, assets and records of the defendants Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc. (hereafter referred to collectively as "defendant nonprofit corporations") is hereby returned to them forthwith, subject however to the exceptions, restrictions and conditions set forth in the following paragraphs.

2. *Jurisdiction Reserved To Settle Receivership Accounts.* The Court reserves jurisdiction to receive and consider the account of the Receiver, Steven S. Weisman, and his petition for discharge and exoneration of his bond, and also to hear and determine all claims for compensation arising out of the institution and maintenance of his receivership, and to order that said claims, insofar as they are allowed by the Court, be paid out of the funds of the defendant nonprofit corporations forthwith. In particular, the Court reserves jurisdiction to hear and determine the claims for compensation of the Receiver himself, and of all the attorneys, accountants, locksmiths, guard services, and other tradesmen and suppliers whose goods and services were used by the Receiver in the performance of his duties; and also to hear and determine, upon proper application to this Court, the claims of the attorneys for the relators for compensation for their legal services rendered up to and including the date of hearing on said account, and for reimbursement of their costs incurred up to that same date.

3. *Jurisdiction Reserved to Reinstitute Receivership.* The Court reserves jurisdiction to reinstitute the receivership, either upon the motion of any party to this litigation, or upon its own motion; and to give any new Receiver such powers and duties as may be necessary or appropriate under the circumstances then obtaining, to preserve and protect the charitable trust funds and assets, and to procure a proper accounting.

4. *Financial Review to Proceed.* The People of the State of California acting by and through the Attorney General are hereby authorized to conduct a thorough audit, or other review as may be appropriate, of the financial affairs of the defendant nonprofit corporations, and shall be entitled to have the full and unqualified cooperation of all the defendants in the conduct of this financial review. Accordingly, the defendant nonprofit corporations shall provide to the Attorney General, his deputies, or to any other representatives designated by him or them in writing (the "auditors") the following resources, facilities and evidences of cooperation, all at the expense of said nonprofit corporations:

(a) *Physical Facilities.* Two adjoining rooms (the "Audit Area") in their data center, adequate in floor space to house a staff of six (6) persons, as well as two (2) copying machines and one (1) computer terminal. These rooms shall be secured as the Attorney General sees fit,

and his staff shall have exclusive and twenty-four-hour access to them. The Attorney General shall have the right to bring records, documents and equipment into the Audit Area, and to remove records, documents and equipment from the Audit Area, as he sees fit.

(b) Computer Access. The defendant nonprofit corporations shall install in the Audit Area forthwith a computer terminal with a direct line to their computer, and shall accord the Attorney General's staff through this terminal full, on-line access to all portions of their computerized data-base and information retrieval systems; and requests initiated from this terminal shall be treated on a first-come-first-served basis along with all other requests initiated from terminals attached to said computer. This access shall be available at all times while the computer is running, so that the Attorney General will be in a position to retrieve from the computer quickly any accounting information regarding their affairs that he wishes. The defendant nonprofit corporations shall furthermore provide the auditors full access to all computer programs, source program listings, operating procedures, record layouts, data-element descriptions, and documentation of the systems in use at their data center, immediately upon the auditors' request.

(c) *Complete Access to All Financial Documents.* All documents in the possession of the Receiver or the auditors employed by the Receiver shall be provided to the Attorney General or his representatives immediately. The Attorney General shall furthermore have the benefit of all work done at the direction of or on behalf of the Receiver by the accounting firm of Peat, Marwick and Mitchell, including their notes, working papers, opinions and conclusions, which are to b disclosed to him or his representatives by said accountants forthwith.

The auditors shall prepare written requests for any financial records or documents of the defendant nonprofit corporations, and any documents of other defendants relating to the affairs of the defendant nonprofit corporations, reasonably required for their audit or financial review. The written requests shall designate the documents requested, the name of the auditor requesting the document, the name of the defendant and the name of the representative of said defendant to whom the request was given, and the date and time of delivery of the request. For purposes of this order, the term "documents" shall include computer-generated and machine-readable records, as well as written documents.

The defendant nonprofit corporations and each of the other defendants shall comply with all such written requests as soon as reasonably possible, but in any event in not more than five working hours from the time any such request is delivered to a defendant or to his or its agent. If delivery of the documents requested cannot be effected for any reason, either in whole or in part, then the defendant to whom the request was directed shall provide a written explanation of the circumstances preventing complete delivery: such explanation shall be signed by said defendant or his or its representative, and shall be delivered to the auditors within five working hours of the receipt of the initial request; and in any event, all document requests shall be filled to the extent possible.

The defendants shall furthermore furnish to the auditors forthwith a complete magnetic tape copy of the financial

data-base of the defendant nonprofit corporations as it was in existence on their computers as of midnight on December 31, 1978. This magnetic tape copy shall be in a form convenient for processing on the Attorney General's own computers.

The auditors shall sign and time-stamp receipts for all documents delivered in response to their requests, or for written excuses for non-delivery, and shall deliver such receipts to the defendants as each case requires. Furthermore, if any documents delivered are required for the day-to-day operation of the defendants' affairs, then the defendants shall so indicate at the time of delivering the document to the auditors; and the auditors shall, within five working hours of receipt of such notification, return the required documents to the defendants.

(d) *Staff Support.* The individual defendants and each of them shall be available to the auditors, either in person or through an agent designated by them in writing within 24 hours of the signing of this order (delivered to the Attorney General) to act for them in this regard, on the Pasadena campus of Ambassador College at all times during business hours.

Each of the corporate defendants shall designate in writing, within twenty-four hours of the signing of this order, agents whose task it will be to receive and assure compliance with the auditors' requests. These agents shall be thoroughly familiar with the financial operations and records of the respective defendants which they represent, and shall furthermore have sufficient authority to act, and shall at all times be deemed to act, for and on behalf of each and every one of the defendants.

The defendants shall designate as many agents as are reasonably necessary to respond to and assure compliance with the auditors' requests; and one agent may represent more than one defendant. The agents designated shall be available in person, at all times during working hours, on the Pasadena campus of Ambassador College.

5. *Confidential Information.* (a) Notwithstanding anything in the preceding paragraph to the contrary, the names of the members of the defendant Worldwide Church of God, Inc. need not be disclosed to the auditors, except insofar as may be necessary to provide financial information requested by the auditors for the performance of their financial review, and then only by prior order of Court.

(b) The Attorney General and his staff shall treat all information received and documents obtained from the defendants during the course of the financial review, as well as all copies of such documents made by the auditors, as confidential, and shall not voluntarily disclose them to any third party except as they may be reasonably required to do so in connection with the conduct of this litigation.

6. *Financial Review to Be At Attorney General's Expense.* Except for the resources and facilities designated in the preceding paragraph, which are to be provided at the expense of the defendants, the Attorney General shall bear all the costs of the financial review. However, the Court reserves jurisdiction to assess the costs of the financial review against any of the defendants, if it should determine that it is appropriate to do so.

7. *Injunction.* (a) The defendants and each of them, and all persons acting in concert with them, are hereby enjoined

and restrained from selling, transferring, conveying, mortgaging, hypothecating, or in any way encumbering the real property of the defendant nonprofit corporations, wherever situated, except after thirty (30) days' written notice to all parties, which notice shall include all documentation and information pertinent to any such transaction proposed.

(b) The defendants and each of them, and all persons acting in concert with them, are hereby enjoined and restrained from transferring any personal property of the defendant nonprofit corporations having a cost or fair market value (whichever is greater) in excess of Five Thousand Dollars ($5000.00), other than in the ordinary course of business, except after thirty (30) days' notice to all parties, which notice shall include all documentation and information pertinent to any such transaction proposed.

(c) The defendants and each of them, and all persons acting in concert with them, are enjoined and restrained from interfering with the financial review, and from obstructing or delaying the production of documents requested by the auditors, in any way whatsoever, and each of them is hereby ordered to comply with each of the orders set forth in paragraphs 1 through 7 above.

(d) The Court imposes no restrictions on expenditures of funds by way of attorney fees or payments to officials and employees of the corporate defendants, but the Court reserves jurisdiction to order the return of funds by the recipients hereafter if it should be demonstrated that such payments were improper in any manner.

Dated: March 2, 1979

/s/ .....
Julius M. Title, *Judge*

(Proof of Service—1013a and 2015.5 C.C.P.)

State of California,
County of Los Angeles, *ss.*

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to the within action or proceeding; that my business address is 9595 Wilshire Blvd., Suite 600, Beverly Hills, California 90212; that on March 2, 1979, I served the within Order Dissolving Receivership; Injunction on the interested parties in said action or proceeding by causing to have hand-delivered to their counsel of record herein a true copy thereof enclosed in a sealed envelope, and addressed as follows:

Ervin, Cohen & Jessup
9401 Wilshire Blvd., Ninth Floor
Beverly Hills, California 90210

Michael J. Clemens, Esq.
9100 Wilshire Blvd., Suite 955
Beverly Hills, California 90212

Ralph H. Nutter, Esq.
Kaplan, Livingston, Goodwin, Berkowitz & Selvin
450 North Roxbury Drive
Beverly Hills, California 90210

Palazzo & Kessler
10100 Santa Monica Blvd., Suite 1370
Los Angeles, California 90067

Appendix N—Order Dissolving Receivership and Injunctive Order

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of March, 1979, at Beverly Hills, California.

/s/ Catherine Kavanaugh
Catherine Kavanaugh

Appendix O

Minute Order Reimposing Receivership (Filed March 12, 1979)

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Julius M. Title *Judge*
G. Torrellas *Deputy Sheriff*

G. Hassen, *Deputy Clerk*
G. Scavarda, *Reporter*

C 267 607

The People of the State of California

vs.

Worldwide Church of God, Inc., *et al.*

Hillel Chodos & L. Tapper
(for Plaintiffs)

M. Clemens, R. Nutter and J. Jaenicke
(for Receiver)

Aulana L. Peters
(for Accountants)

Arnold D. Larson
(for Intervenor)

Allan Browne, W. Morgan and E. Horvitz
(for Defendants)

Nature of Proceedings:
Hearing on Final Accounting of Receiver, etc.

Matters come on for hearing. Hillel Chodos' motion for attorney fees and costs is denied without prejudice. The Court declares that it will not take oral testimony on the final accounting of the former Receiver, but will decide the issue on the further written objections, declarations and points and authorities of counsel. All subpoenas issued for today's proceedings are ordered quashed. The former Receiver shall make available to the defendants, for examination in the Receiver's offices, all records, bills, vouchers, etc., including attorney time records. The accounting firm of Peat, Marwick and Mitchell shall also make available to the defendants all of its records on the final accounting. Said examinations by the defendants shall be completed on or before March 16, 1979 and their objections in reference to the final accounting shall be delivered to the Court on that date. Counsel for the Receiver is directed to file, on or before March 14, 1979, declarations setting forth their theory on the refusal of payment for the services of the security firm, Boyd and Associates. Any reply by Boyd and Associates shall be filed on or before March 16, 1979.

Defendants' motions for leave to sue Receiver Steve Weismann to increase the amount of his bond are denied. Defendants' motion for undertaking on granting injunction pursuant to CCP 525 is denied. The declaration of Willis J. Bicket is ordered filed.

The Court finds that the taking of the appeal by the defendants from the Court's order of March 2, 1979, is not per se violative of said order, but nevertheless the status quo of the assets and records must be maintained pending appeal. The Court vacates its prior orders re the dissolu-

tion of the Receivership and appoints David L. Ray as Receiver on terms and conditions enunciated by the Court in open court this date and as contained in the notes of the official court reporter. Counsel for the Plaintiff is directed to prepare a written order. Said Receiver is directed to file a bond in the amount of $10,000.00. The Court sets the amount of a bond to stay Receivership pending appeal at $1,000,000.00. Pursuant to request of Plaintiff, the Court directs that the record reflect that Stanley P. Rader is present in Court this date.

A copy of this minute order is mailed to all counsel this date.

Appendix P

Minute Order Denying Protective Order (Filed May 29, 1979)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

HONORABLE THOMAS T. JOHNSON, *Judge*
C. E. IEAR, *Deputy Clerk*

C 267607

THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.*,
ALVIN EARL TIMMONS, *et al.*

VS.

WORLDWIDE CHURCH OF GOD, INC., *etc., et al.*

NATURE OF PROCEEDINGS: Submitted Matter

The motion of defendants, Worldwide Church of God, Inc., Ambassador College, Inc., Ambassador International Cultural Foundation, Inc., Worldwide Advertising, Inc., Gateway Publishing, Inc., Herbert W. Armstrong, Stanley R. Rader, Henry Cornwall, and Ralph R. Helge for protective order, having been taken under submission on May 23, 1979, the Court now makes the following ruling:

> Motion is denied. The Court finds insufficient showing of necessity for such an order.

Counsel for Plaintiff is to give notice.

Minutes Entered
May 29, 1979
County Clerk

Court of Appeals Denial of Writ (Filed August 21, 1979)

Los Angeles, Cal. 8-21, 1979

TITLE

Worldwide Church of God, Inc., etc. et al.

VS.

Superior Court of L.A. Co.
The People, RPI S.C. #C 267607

THE COURT:

The Petition for writ of mandate, etc. is denied.

CLAY ROBBINS, *Clerk*

Appendix Q

Letter of Attorney General Deukmejian to Honorable Douglas Applegate (Filed March 23, 1979)

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN
(Pronounced Duke-may-gin)
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
555 Capital Mall, Suite 350
Sacramento 95814
(916) 445-9555

March 23, 1979

Honorable Douglas Applegate
House of Representatives
1330 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Applegate:

Enclosed are the comments you requested concerning the Worldwide Church of God.

The Attorney General's office is currently reviewing information obtained by the court-appointed receivers. Any future legal actions will be determined by that review.

You should know how this action came about. Worldwide Church of God, Inc., is a California corporation created

under the general nonprofit code, as are Ambassador College and Ambassador International Cultural Foundation. Under the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

The Statutes and court decisions clearly impose a duty upon the Attorney General's office to insure that funds and assets of charitable organizations are used for the purposes stated in the articles of incorporation. Some members of the church notified the Attorney General's office that funds and assets were being diverted to other uses. Accountability and proper disposition of charitable assets are required at all times by all charitable organizations. Moreover, these standards, although delicately balanced in the case of religious corporations, nevertheless must apply. The United States Supreme Court has carefully delineated the cases involving church property on the one hand and church doctrine on the other hand in its First Amendment decisions.

You should know that the arguments raised by the defendants, both constitutional and otherwise, have been reviewed by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and are now pending before the California Supreme Court.

The record, which Judge Title used to order a full receivership, was extensive, consisting not only of declarations but also documentary evidence and live testimony introduced during a three-day hearing. Thus, any question concerning the sufficiency of evidence and appropriateness of the action in seeking and obtaining a receiver was thoroughly

Appendix Q—Letter of Attorney General Deukmejian to Honorable Douglas Applegate

aired and resolved in our favor, and we have proceeded from that point.

We are pleased to be of assistance to you.

Most cordially,

/s/ GEORGE DEUKMEJIAN
George Deukmejian

GD/dh

Appendix R

Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong) (Filed January 22, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. C 267 607

[TITLE OMITTED]

TO DEFENDANTS STANLEY R. RADER and HERBERT W. ARMSTRONG and to THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiffs and relators will take the depositions of Herbert W. Armstrong and Stanley R. Rader at the offices of the Attorney General of the State of California, 3580 Wilshire Boulevard, Room 800, Los Angeles, California 90010, before a Notary Public in and for the State of California, on the dates and at the times below indicated:

Witness	*Date*	*Time*
STANLEY R. RADER	January 31, 1979	9:30 a.m.
HERBERT W. ARMSTRONG	February 1, 1979	9:30 a.m.

If for any reason the taking of said depositions is not completed on said dates, the taking of said depositions will be continued from day to day, excluding Sundays and holidays, until completed.

PLEASE TAKE FURTHER NOTICE that defendants Stanley R. Rader and Henry W. Armstrong are required, pursuant to Section 2019(a)(5) of the Code of Civil Procedure, to

bring and produce at said depositions all of the writings in their respective possession or control described in Schedule A hereto, which is by this reference incorporated herein as though set forth in full.

Dated: January 22, 1979

GEORGE DEUKMEJIAN
Attorney General

LAWRENCE R. TAPPER
Deputy Attorney General

By .....
Lawrence R. Tapper
Attorneys for Plaintiffs and Relators

SCHEDULE A

1. As used herein, the term "writings" is intended to be defined in the manner set forth in California Evidence Code Section 250, which provides as follows:

Section 250: *"Writing"*.

"'Writing' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof."

2. "Rader" means and refers to defendant Stanley R. Rader and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

3. "Armstrong" means and refers to defendant Herbert W. Armstrong and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

4. The "Worldwide Church of God" means and refers to defendant Worldwide Church of God, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys or other persons acting or purporting to act on its behalf.

5. "Ambassador College" means and refers to defendant Ambassador College Inc., a California corporation, and any and all of its agents, representatives, directors, officers,

subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

6. "Ambassador International" shall mean and refer to defendant Ambassador International Cultural Foundation, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

7. "Wilshire Travel" shall mean and refer to defendant Wilshire Travel, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

8. "Worldwide Advertising" shall mean and refer to defendant Worldwide Advertising, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

9. "Gateway Publishing" shall mean and refer to defendant Gateway Publishing Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

10. "Environmental Plastics" shall mean and refer to defendant Environmental Plastics, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys or other persons acting or purporting to act on its behalf.

11. As used herein the term "evidence" shall mean and include every document which in any respect, matter, manner or particular reflects, summarizes, establishes, depicts, records, reports, refers to or relates to the act, event, condition, communication or other matter in question.

The books, records and documents which are to be produced at the taking of the depositions of Rader and Armstrong noticed concurrently herewith are as follows:

1. All writings which constitute, refer, reflect, relate, pertain to or evidence communications between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Wilshire Travel, Worldwide Advertising, Gateway Publishing, and Environmental Plastics, or any of them, on the other hand.

2. All writings which evidence the personal finances of Rader and Armstrong, or either of them, from January 1, 1970 to present.

3. All diaries, telephone logs or similar writings which evidence appointments, meetings, telephone conversations, or communications by or to Rader or Armstrong from January 1, 1970 to present.

4. All writings which evidence business or financial dealings between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Wilshire Travel, Worldwide Advertising, Gateway Publishing, and Environmental Plastics, or any of them, on the other hand.

Appendix R—Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong)

5. All writings which relate to the property in Texas commonly referred to as the "Big Sandy Property".

6. All writings which relate to the property in Beverly Hills commonly known as 840 Loma Vista Drive, Beverly Hills, California.

Appendix S

Notice of Taking Deposition and Notice to Produce Documents (to H. Armstrong) (Filed July 26, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

To Defendant Herbert W. Armstrong and to His Attorneys of Record:

PLEASE TAKE NOTICE that plaintiff will take the deposition of defendant Herbert W. Armstrong at the offices of Bouley, Schlesinger, Dicurti, Schippers, Garwood & Erwin, located at 1500 Arizona Bank Plaza, 33 North Stone, Tucson, Arizona 85701, before a Notary Public of the State of Arizona, on August 13, 1979, at 10:00 o'clock a.m.

If for any reason the taking of said deposition is not completed on said date, the taking of said deposition will be continued from day to day, excluding Sundays and holidays, until completed.

PLEASE TAKE FURTHER NOTICE that defendant Herbert W. Armstrong is required, pursuant to Section 2019(a)(5) of the Code of Civil Procedure, to bring and produce at said deposition all of the writings in his possession or control

described in Schedule A hereto, which is by this reference incorporated herein as though set forth in full.

DATED: July 26, 1979.

GEORGE DEUKMEJIAN, *Attorney General*
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By /s/ JAMES M. CORDI
JAMES M. CORDI
Attorneys for Plaintiff

SCHEDULE A

1. As used herein, the term 'writings' is intended to be defined in the manner set forth in California Evidence Code Section 250, which provides as follows:

Section 250: *"Writings".*

"'Writings' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof."

2. "Rader" means and refers to defendant Stanley R. Rader and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

3. "Armstrong" means and refers to defendant Herbert W. Armstrong and any and all of his agents, representatives, attorneys, or other persons acting or purporting to act on his behalf.

4. The "Worldwide Church of God" means and refers to defendant Worldwide Church of God, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

5. "Ambassador College" shall mean and refer to defendant Ambassador College, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

6. "Ambassador International" shall mean and refer to defendant Ambassador International Cultural Foundation, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

7. "Mid-Atlantic" and "Excelsior" means and refers to defendants Mid-Atlantic Leasing, a corporation or partnership, and Excelsior Leasing, a corporation, respectively, and any and all of their agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting, or purporting to act on their behalf.

8. "Worldwide Advertising" shall mean and refer to defendant Worldwide Advertising, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

9. "Gateway Publishing" shall mean and refer to defendant Gateway Publishing, Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

10. "Environmental Plastics" shall mean and refer to defendant Environmental Plastics Inc., a California corporation, and any and all of its agents, representatives, directors, officers, subsidiaries, affiliates, attorneys, or other persons acting or purporting to act on its behalf.

11. As used herein, the term "evidence" shall mean and include every document which in any respect, matter, man-

ner or particular reflects, summarizes, establishes, depicts, records, reports, refers to or relates to the act, event, condition, communication or other matter in question.

The books, records and documents which are to be produced at the taking of the deposition of Armstrong noticed concurrently herewith are as follows:

1. All writings which constitute, refer, reflect, relate, pertain to or evidence communications between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand, which writings pertain in any way to any financial transactions, or the use or proposed use of any assets of any of the above entities.

2. All writings which evidence the personal finances of Armstrong from January 1, 1970 to present.

3. All diaries, telephone logs or similar writings which evidence appointments, meetings, telephone conversations, or communications by or to Rader or Armstrong from January 1, 1970 to present.

4. All writings which evidence business or financial dealings between Rader and Armstrong, or either of them, on the one hand, and Worldwide Church of God, Ambassador College, Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand.

5. All writings which evidence business or financial dealings between defendant Osamu Gotoh, Raymond L. Wright, Henry Cornwall, Ralph Helge, or any of them, on the one hand, and Worldwide Church of God, Ambassador College,

Appendix S—Notice of Taking Depositions and Notice to Produce Documents (to H. Armstrong)

Ambassador International, Worldwide Advertising, Gateway Publishing, Environmental Plastics, Mid-Atlantic, Excelsior, or any of them, on the other hand.

6. All writings which relate to the property in Texas commonly referred to as the "Big Sandy Property".

7. All writings which relate to the property in Beverly Hills commonly known as 840 Loma Vista Drive, Beverly Hills, California.

8. All writings which relate to the purposes and use of Third Tithe from January 1, 1960 to the present.

9. All writings which relate to the sale of any real property by Worldwide Church of God, Ambassador College or Ambassador International within the past 24 months.

10. All writings, including employment contracts, which evidence any compensation, perquisites, expense reimbursements, loans or other financial benefits received by Armstrong, Rader, Gotoh, Cornwall, Helge, Wright, or any of them, from Worldwide Church of God, Ambassador College, Ambassador International, or any of them, from January 1, 1970 to the present.

11. All corporate minute books of Worldwide Church of God, Ambassador College, and Ambassador International from the inception of such minutes to the present.

12. All writings which relate to adoption or amendment of articles of incorporation or by-laws of Worldwide Church of God, Ambassador College, and Ambassador International, or any of them, from January 1, 1957 to the present.

Appendix T

Interrogatories to Worldwide Church of God (Filed May 18, 1979)

SUPERIOR COURT OF
THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

NO. C 267-607

[TITLE OMITTED]

Plaintiff requests that defendant Worldwide Church of God, Inc. answer the following interrogatories under oath within 30 days from the date of service pursuant to California Code of Civil Procedure, section 2030.

DEFINITIONS:

As used throughout these interrogatories, "person" refers to individuals, corporations, partnerships, joint ventures, associations and all other forms of entities; "each" means each and every; "you" refers to defendant Worldwide Church of God, Inc.

INTERROGATORY No. 1:

State the total compensation, including but not limited to salary, which you paid each of the following persons or entities for services rendered in any capacity whatsoever in each year from the time you first paid him any such compensation to the present (excluding payments prior to 1957):

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

INTERROGATORY No. 2:

State the total amount of expenses which you paid to, or for the benefit of, each of the following persons or entities in each year from the time you first paid such expenses to each such person or entity to the present (excluding payments prior to 1957). ("Expenses" means reimbursement by you for any expenditure or payment incurred by any other person, or payment by you of any debt charge or bill incurred by any other person.)

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo, or any successor or predecessor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

INTERROGATORY No. 3:

Have you ever made any payments to corporations, partnerships, or other business entities in which any of the persons listed in interrogatory 1 (or any member of the immediate families of such persons) had an ownership interest?

INTERROGATORY No. 4:

Name the entities to which you made the payments referred to in the previous interrogatory, and list the present address and telephone number of each.

INTERROGATORY No. 5:

As to each entity listed in your answer to the previous interrogatory, please state the total amount of payments made to each entity in each year from the time you first made any such payment to the present (payments made prior to 1957 may be excluded).

INTERROGATORY No. 6:

Have you ever solicited donations from persons who are not members of the Worldwide Church of God, Inc.?

INTERROGATORY No. 7:

If your answer to the previous interrogatory was yes, please state the following:

(a) Were any such solicitations made in radio and/or television broadcasts, and if so, when, what radio and/or television stations broadcast them, and what is the location of each such station?

(b) Were any such solicitations made through the mails, and if so, approximately how many such solicitations were mailed in each year since 1969?

(c) Were any such solicitations made by means of personal contact, and if so, approximately how many persons were contacted in each year since 1969?

(d) Were any representations made to those solicited as to the purposes for which their donations would be used, and if so, what?

(e) Have you ever received donations from persons who were not at the time of such donations members of the Worldwide Church of God, Inc., and if so, please state the total amount received each year from 1969 to the present.

INTERROGATORY No. 8:

Have you ever made gifts of money or other assets to any person, corporation or other business entity (excluding years prior to 1969)?

INTERROGATORY No. 9:

If you answer to the previous interrogatory was yes, please state the following:

(a) The name, business address and business telephone number of each recipient of a gift;

(b) The cost to you of each such gift, and if the gift was one of money, the amount of money so given;

(c) Identify what gifts were given to which donees;

(d) State the purpose for which each such gift was made.

INTERROGATORY No. 10:

Have you ever solicited donations for the construction of Ambassador Auditorium in Pasadena, California?

INTERROGATORY No. 11:

Have you received any donations of funds for the construction of Ambassador Auditorium?

INTERROGATORY No. 12:

(a) If your answer to the previous interrogatory was yes, please state the total amount of money and total value of other assets received for that purpose.

(b) Please state the purpose or purposes for which the funds so collected were used.

(c) If not used for construction of Ambassador Auditorium, please explain in detail all uses to which you put such funds.

INTERROGATORY No. 13:

What was the total cost of construction of Ambassador Auditorium?

INTERROGATORY No. 14:

Did you obtain any loans to finance the construction of Ambassador Auditorium?

INTERROGATORY No. 15:

If your answer to the previous interrogatory was yes, please state the following:

(a) The name, address and telephone number of the lender or lenders;

(b) The exact amount loaned by each lender.

INTERROGATORY No. 16:

Have you ever leased motor vehicles for the use of your officers, directors, employees, agents or independent contractors?

INTERROGATORY No. 17:

If your answer to the previous interrogatory was yes, please state the following information:

(a) The name, address and telephone number of each lessor;

(b) Do any of the defendants in this action or members of their immediate families have any ownership interest in any of the said lessors now or at any time in the past?

INTERROGATORY No. 18:

You (*sic*) you now or have you ever solicited money from your members which is designated as "the third tithe"?

INTERROGATORY No. 19:

If your answer to the previous interrogatory was yes, please give the following information:

(a) What is the purpose of the third tithe?

(b) Have you ever made any representations to your members as to the purpose for which the third tithe would be used by you? If your response is affirmative, set forth the representation(s) made by you in that respect.

INTERROGATORY No. 20:

Did you ever represent to your members that the third tithe was used for the purpose of aiding widows and orphans?

INTERROGATORY No. 21:

If your answer to the previous interrogatory was yes, please give the names, addresses and telephone numbers of all widows and orphans who reside in the State of California who have been given such aid within the last five years.

INTERROGATORY No. 22:

Please state how much money was collected by you in the form of the third tithe in each year from 1969 to the present time.

INTERROGATORY No. 23:

List the name, current address and telephone number of each member of your board of directors from 1957 to the present.

Appendix T—Interrogatories to Worldwide Church of God

INTERROGATORY No. 24:

Identify each parcel of real property owned by you as of December 31, 1978.

INTERROGATORY No. 25:

List each parcel of real property owned by you as of December 31, 1977.

INTERROGATORY No. 26:

List all accounts receivable, promissory notes or any other extensions of credit (identifying the date, amount and debtor of each) carried on your books now or at any other time, evidencing debts owed to you by any of the following persons or entities:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

Appendix T—Interrogatories to Worldwide Church of God

INTERROGATORY No. 27:

If you listed any debts in response to the previous interrogatory:

(a) Have any such debts not been paid, in whole or in part, and if not, which ones?

(b) What is the unpaid principal and interest balance on each such unpaid debt?

INTERROGATORY No. 28:

List by institution name, brand name and account number each and every account and/or safe deposit box ever maintained by you in a bank, savings and loan association or like financial institution, from 1957 to the present.

INTERROGATORY No. 29:

List by person, date of transaction, property description, character of transaction, and consideration, monetary or otherwise, all transactions between you and any of the following persons or entities where property was sold or transferred either to you by said persons or entities or by you to said persons or entities, from 1957 to the present:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

INTERROGATORY No. 30:

List by date of lease or rental agreement, property description, name of lessee and lessor, term of lease and consideration, monetary or otherwise, all rental or lease transactions between you and any of the following persons or entities wherein property was rented or leased, either to you by said persons or entities or by you to said persons or entities, from 1957 to the present:

(a) Stanley R. Rader;

(b) Osamu Gotoh;

(c) Raymond L. Wright;

(d) Henry Cornwall;

(e) Ralph Helge;

(f) Herbert W. Armstrong;

(g) The accounting firm of Rader, Cornwall, Kessler and Pallazo; or any predecessor or successor thereof;

(h) The law firm of Rader, Helge and Gerson, or any predecessor or successor thereof;

(i) Worldwide Advertising;

(j) Bradley Advertising.

(k) Any member of the immediate family of the persons listed in (a)-(f) above.

Dated: May 18, 1979

GEORGE DEUKMEJIAN, *Attorney General*
JAMES M. CORDI,
Deputy Attorney General

By JAMES M. CORDI
JAMES M. CORDI
Deputy Attorney General
Attorneys for Plaintiff

Appendix U

Request for Production of Documents by Worldwide Church of God (Filed May 18, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

To Defendant Worldwide Church of God, Inc. and to its Attorneys of Record in this action. You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the following:

Definitions

As used throughout these Requests for Production:

1. "Person" means any natural person or legal entity, whether incorporated or not.

2. "Correspondence" means any written communication of any kind in any form.

3. "General disbursement voucher" means a form designated by that name used by the Church's accounting department, the same as or similar to the example attached hereto as Exhibit "A."

1. The Corporate Minutes of Worldwide Church of God Inc. including minutes of any meeting of committees of the Board of Directors, from January 1, 1957 to the present. (Worldwide Church of God, Inc. will hereafter be referred to as the Church.)

Appendix U—Request for Production of Documents by Worldwide Church of God

2. All leases, agreements and contracts between the Church and defendant Mid-Atlantic Leasing, a partnership, executed or in force at any time between the inception of Mid-Atlantic Leasing and the present.

3. Each and every cancelled check, draft or money order paid by the Church to Mid-Atlantic Leasing, or to any person on its behalf, from the inception of Mid-Atlantic Leasing to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

4. Each and every written contract, agreement or lease between the Church and defendant Worldwide Advertising, Inc. executed or in force between the inception of Worldwide Advertising, Inc. and the present. Each and every agreement memorandum, correspondence or written record of any type pertaining to the termination of services rendered by Worldwide Advertising, Inc. to the Church, including any written contract or agreement providing for the payment of any funds by the Church to Worldwide Advertising, or to any person on its behalf, by reason of such termination of services.

5. Each and every cancelled check, draft or money order paid by the Church to World Wide Advertising, or to any person on its behalf, from the inception of World Wide Advertising to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

6. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant

Stanley R. Rader, or to any person on his behalf, for the purpose of defraying any expense whatsoever pertaining to the house located at 840 Loma Vista Road, Beverly Hills, California. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

7. Any and all deeds, purchase agreements, escrow instructions, notes, loan agreements or security instruments pertaining to the 1971 purchase by the Church of the house located at 840 Loma Vista Road, Beverly Hills, California and the subsequent transfer of said house to Stanley R. Rader.

8. Any and all sale agreements, deeds, escrow instructions, notes, loan agreements or security instruments pertaining to the 1978 purchase by defendant Stanley R. Rader of the house located at 360 Waverly Drive in Pasadena for approximately $225,000 from the Church. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of Stanley R. Rader, or to any person on his behalf, pertaining to the said house. Each and every check, general disbursement voucher, request, voucher, statement, invoice, or bill supporting or pertaining to such payments.

9. Any and all deeds, sale agreements, escrow instructions, loan agreements, notes or security instruments pertaining to the 1977 purchase by the Church of a house in Tucson, Arizona for defendant Stanley R. Rader. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, for any expense

pertaining to the said house. Each and every general disbursement voucher, check request, voucher, statement, invoice or bill supporting or pertaining to such payments.

10. Each and every cancelled check, draft or money order paid by the Church to defendant Environmental Plastics, Inc. between the inception of Environmental Plastics and the present. Each and every general disbursement voucher, check request, voucher, statement, invoice or bill supporting or pertaining to such payments.

11. Each and every cancelled check, draft or money order paid by the Church, to or for the benefit of Osamu Gotoh, or to any person on his behalf, as reimbursement for expenses, compensation, or for any other purpose, from the time of such payment to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill pertaining to such payments.

12. Any and all contracts, agreements or leases between the Church, and defendant Excelsior Financial Services Inc. executed or in force between the inception of Excelsior Financial Services Inc. and the present.

13. Each and every cancelled check, draft or money order paid by the Church to Excelsior Financial Services, Inc. from its inception to the present time. Each and every general disbursement voucher, check request, voucher, invoice, bill or statement pertaining to any of the above payments.

14. Any and all correspondence to or from the Church, or any person on its behalf, and

a. Mid-Atlantic Leasing, or any person on its behalf;

b. Worldwide Advertising, or any person on its behalf;

c. Environmental Plastics, or any person on its behalf;

d. Excelsior Leasing, or any person on its behalf;

e. Defendant Wilshire Travel, or any person on its behalf; from the inception of any of the above named entities to the present.

15. Any and all correspondence to or from the Church, or any person on its behalf, and Osamu Gotoh, or any person on his behalf, from January 1, 1970 to the present.

16. Each and every cancelled check, draft or money order paid by the Church to or for the benefit of defendant Osamu Gotoh, or to any person on his behalf, from the time of the first such payment to the present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

17. Each and every cancelled check, draft or money order paid by the church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, to defray his expenses since 1979 to present. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill supporting or pertaining to such payments.

18. Each and every cancelled check, draft or money order paid by the church to or for the benefit of defendant Stanley R. Rader, or to any person on his behalf, as salary, from the time of the first such payment to the present.

The above described documents and things shall be produced for inspection and copying by plaintiff on June 20, 1979 at 10:00 a.m. at the office of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California.

The above described documents and things are currently in the possession, custody or control of defendant Worldwide Church of God, not privileged, and relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Dated: May 18, 1979

GEORGE DEUKMEJIAN
Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By /s/ JAMES M. CORDI
JAMES M. CORDI
Deputy Attorney General

Attorneys for Plaintiff

Appendix V

Request for Production of Documents by Stanley Rader (Filed June 5, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

TO DEFENDANT STANLEY R. RADER, AND TO HIS ATTORNEYS OF RECORD IN THIS ACTION: You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the documents and things described hereinbelow. Said documents and things are currently in the possession, custody or control of defendant Stanley R. Rader, are not privileged, and are relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Said documents and things shall be produced for inspection and copying on July 5, 1979 at 10:00 a.m. at the offices of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California 90010.

Said documents and things are the following:

1. The corporate minutes of Worldwide Advertising, Inc. from its inception to the present.

2. The books and accounts of Worldwide Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

Appendix V—Request for Production of Documents by Stanley Rader

3. Each and every contract or agreement between Worldwide Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

4. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Worldwide Advertising, Inc. from its inception to the present.

5. The corporate minutes of Bradley Advertising, Inc. from its inception to the present.

6. The books and accounts of Bradley Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

7. Each and every contract or agreement between Bradley Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

8. Each and every statement or deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary

and/or earnings of Stanley R. Rader from Bradley Advertising, Inc. from its inception to the present.

9. The corporate minutes of Gateway Publishing, Inc. from its inception to the present.

10. The books and accounts of Gateway Publishing, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

11. Each and every contract or agreement between Gateway Publishing, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

12. Each and every statement of deductions and/or earnings, W-2 Form(s) and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Gateway Publishing, Inc. from its inception to the present.

13. The corporate minutes of Excelsior Financial Services, Inc. from its inception to the present.

14. The books and accounts of Excelsior Financial Services, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

15. Each and every contract or agreement between Excelsior Financial Services, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

16. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Stanley R. Rader from Excelsior Financial Services, Inc. from its inception to the present.

17. Each and every partnership agreement and/or agreements and amendments thereto for Mid-Atlantic Leasing since its inception to the present.

18. The books and records of Mid-Atlantic Leasing, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

19. Each and every lease, agreement and/or contract between Mid-Atlantic Leasing, from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

20. Each and every partnership agreement and/or agreements and amendments thereto for the law firm of Rader, Helge and Gerson from its inception to the present.

Appendix V—Request for Production of Documents by Stanley Rader

21. The books and records of the law firm of Rader, Helge and Gerson, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

22. Each and every lease, agreement and/or contract between the law firm of Rader, Helge and Gerson, from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

23. Each and every partnership agreement and/or agreements and amendments thereto for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, since its inception to the present.

24. The books and records for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

25. Each and every lease, agreement and/or contract between the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

Appendix V—Request for Production of Documents by Stanley Rader

C. Ambassador International Cultural Foundation.

26. Any and all deeds, agreements, escrow instructions, promissory notes, trust deeds, loan agreements, security instruments, tax bills, and leases or rental agreements pertaining to the real property and house located at 840 Loma Vista Road, Beverly Hills, California.

27. Each and every cancelled check, draft or money order reflecting payment of mortgage payments, taxes, utilities, maintenance, upkeep, repair, decoration, domestic or gardening servants, and furnishing of that real property and house located at 840 Loma Vista Road, Beverly Hills, California. Each and every statement or bill pertaining to said payments.

28. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill submitted to any of the following entities for payment by said entity of any expense relating to the real property and house located at 840 Loma Vista Road, Beverly Hills, California:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

29. Any and all deeds, agreements, escrow instructions, promissory notes, loan agreements, tax bills and security instruments pertaining to the real estate and house located at 360 Waverly Drive, Pasadena, California.

Appendix V—Request for Production of Documents by Stanley Rader

30. Any and all deeds, agreements, escrow instructions, loan agreements, promissory notes, tax bills and security instruments pertaining to that real property and house located at Tucson, Arizona purchased for the use and benefit of Stanley R. Rader by any or all of Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

31. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill ever submitted by Stanley R. Rader, since 1969 to present, to any of the following entities for the purpose of obtaining reimbursement for expenses incurred in any capacity for said entity:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

32. Each and every cancelled check, draft or money order, statement of earnings and/or deductions, W-2 Form, Form 1099 or other documents reflecting salary and/or wages paid to Stanley R. Rader from 1965 to the present as an employee or principal by any of the following entities:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

E. The Accounting Firm of Rader, Cornwall, Kessler and Palazzo.

Appendix V—Request for Production of Documents by Stanley Rader

F. The law firm of Rader, Helge and Gerson.

G. Bradley Advertising, Inc.

H. Excelsior Financial Services, Inc.

I. Mid-Atlantic Leasing

33. Each and every cancelled check, draft or money order and each and every bank statement on every account in any bank and/or savings and loan association, from 1969 to present, which stands in the name of Stanley R. Rader or that name as joint or co-tenant with another individual(s) or entity(ies).

DATED:

GEORGE DEUKMEJIAN, Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By .....
LAUREN R. BRAINARD
Deputy Attorney General
Attorneys for Plaintiff

Appendix V—Request for Production of Documents by Stanley Rader

SERVICE LIST

MICHAEL J. CLEMENS, ESQ.
9100 Wilshire Boulevard
Suite 955
Beverly Hills, CA 90212

RONALD G. REES,
ARTHUR L. RALSTON
Attorneys at Law
DAVID RAY, ESQ., *Receiver*
8920 Wilshire Boulevard
Suite 500
Beverly Hills, CA 90211

PALLAZZO & KESSLER
10100 Santa Monica Blvd.
Suite 1370
Los Angeles, CA 90067

TROY, MALIN & POTTINGER
MAYNARD J. KLEIN, ESQ.
1801 Century Park East,
16th Floor
Los Angeles, CA 90067

ERVIN, COHEN & JESSUP
ALLAN BROWNE, ESQ.
9401 Wilshire Boulevard
9th Floor
Beverly Hills, CA 90212

IVERSON, YOAKUM, PAPIANO & HATCH
ARNOLD D. LARSON, ESQ.
611 West Sixth Street
Suite 1900
Los Angeles, California 90017

COMBS & GITTLER
Attorneys at Law
1888 Century Park East
Suite 1520
Los Angeles, California 90067

RALPH H. NUTTER, ESQ.
KAPLAN, LIVINGSTON, GOODWIN, BERKOWITZ & SLEVIN
450 North Roxbury Drive
Beverly Hills, CA 90210

HARNEY & MOORE
DAVID M. HARNEY, ESQ.
650 South Grand Avenue
Suite 1200
Los Angeles, CA 90017

MORGAN, WENZEL & MCNICHOLAS
W. MARSHAL MORGAN, ESQ.
1545 Wilshire Boulevard
Suite 800
Los Angeles, CA 90017

HORVITZ, GREINES & POSTER
ELLIS J. HORVITZ, ESQ.
15760 Ventura Boulevard
7th Floor
Encino, CA 91436

RADER, HELGE & GERSON
Union Bank Bldg., Ste. 706
201 S. Lake Avenue
Pasadena, California 91101

Appendix W

Request for Production of Documents and Things for Inspection and Copying by Henry Cornwall (June 5, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

TO DEFENDANT HENRY CORNWALL, AND TO HIS ATTORNEYS OF RECORD IN THIS ACTION: You are hereby requested under Code of Civil Procedure section 2031 to produce for plaintiff the documents and things described hereinbelow. Said documents and things are currently in the possession, custody or control of defendant Henry Cornwall, are not privileged, and are relevant to the subject matter of this action or reasonably calculated to lead to discovery of admissible evidence in this action.

Said documents and things shall be produced for inspection and copying on July 9, 1979 at 10:00 a.m. at the offices of the Attorney General, 3580 Wilshire Boulevard, Room 500, Los Angeles, California 90010.

Said documents and things are the following:

1. The corporate minutes of Worldwide Advertising, Inc. from its inception to the present.

2. The books and accounts of Worldwide Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

3. Each and every contract or agreement between Worldwide Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

4. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Worldwide Advertising, Inc. from its inception to the present.

5. The corporate minutes of Bradley Advertising, Inc. from its inception to the present.

6. The books and accounts of Bradley Advertising, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

7. Each and every contract or agreement between Bradley Advertising, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

8. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary

and/or earnings of Henry Cornwall and Stanley R. Rader from Bradley Advertising, Inc. from its inception to the present.

9. The corporate minutes of Gateway Publishing, Inc. from its inception to the present.

10. The books and accounts of Gateway Publishing, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, executive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

11. Each and every contract or agreement between Gateway Publishing, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

12. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Gateway Publishing, Inc. from its inception to the present.

13. The corporate minutes of Excelsior Financial Services, Inc. from its inception to the present.

14. The books and accounts of Excelsior Financial Services, Inc. from its inception to the present, including its general ledger, accounts payable, accounts receivable, ex-

ecutive salaries, stockholder distributions or dividends, client lists, bank statements and cancelled checks.

15. Each and every contract or agreement between Excelsior Financial Services, Inc., from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

16. Each and every statement of deductions and/or earnings, W-2 Form(s), and Form(s) 1099 pertaining to salary and/or earnings of Henry Cornwall and Stanley R. Rader from Excelsior Financial Services, Inc. from its inception to the present.

17. Each and every partnership agreement and/or agreements and amendments thereto for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, since its inception to the present.

18. The books and records for the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto, including but not limited to its general ledger, accounts receivable, accounts payable, executive salaries, partnership distributions or dividends, client lists, bank statements and cancelled checks.

19. Each and every lease, agreement and/or contract between the accounting firm of Rader, Cornwall, Kessler and Palazzo, and any predecessor thereto from its inception to the present, and each of the following:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

20. Each and every cancelled check, draft or money order reflecting payment by Worldwide Advertising, Inc. of mortgage payments, taxes, utilities, maintenance, upkeep, repair, decoration, utilities, domestic or gardening servants, and the furnishing of that real property and house located at 840 Loma Vista Road, Beverly Hills, California. Each and every statement or bill pertaining to said payments.

21. Each and every general disbursement voucher, check request, voucher, invoice, statement or bill ever submitted by Henry Cornwall, since 1969 to present, to any of the following entities for the purpose of obtaining reimbursement for expenses incurred in any capacity for said entity:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

22. Each and every cancelled check, draft or money order, statement of earnings and/or deductions, W-2 Form, Form 1099 or other documents reflecting salary and/or wages paid to Henry Cornwall from 1965 to the present as an employee or principal by any of the following entities:

A. Worldwide Church of God.

B. Ambassador College.

C. Ambassador International Cultural Foundation.

D. Worldwide Advertising, Inc.

E. The Accounting Firm of Rader, Cornwall, Kessler and Palazzo.

F. The law firm of Rader, Helge and Gerson.

G. Bradley Advertising, Inc.

H. Excelsior Financial Services, Inc.

I. Mid-Atlantic Leasing.

23. Each and every cancelled check, draft or money order and each and every bank statement on every account in any bank and/or savings and loan association, from 1969 to present, which stands in the name of Henry Cornwall or that name as joint or co-tenant with another individual(s) or entity(ies).

Dated:

GEORGE DEUKMEJIAN
Attorney General
LAWRENCE R. TAPPER
JAMES M. CORDI
WILLIAM S. ABBEY
LAUREN R. BRAINARD
Deputy Attorneys General

By.....
LAUREN R. BRAINARD
Deputy Attorney General
Attorneys for Plaintiff

DECLARATION OF SERVICE BY MAIL

Re:

The People, etc. v. Worldwide Church of God, Inc., et al.; No. C 267-607

I am over 18 years of age, and not a party to the within cause; my business address is 800 Tishman Building, 3580 Wilshire Boulevard, Los Angeles, California 90010; I served a copy of the attached

> REQUEST TO HENRY CORNWALL FOR PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION AND COPYING

on each of the following, by placing same in an envelope(s) addressed as follows:

SEE ATTACHED SERVICE LIST

Each said envelope was then on June 5, 1979 sealed and deposited in the United States Mail at Los Angeles, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 5, 1979, at Los Angeles, California.

/s/ MARGARET HIETS
Declarant

Appendix W—Request for Production of Documents and Things for Inspection and Copying by Henry Cornwall

SERVICE LIST

MICHAEL J. CLEMENS, ESQ.
9100 Wilshire Boulevard
Suite 955
Beverly Hills, CA 90212

COMBS & GITTLER
Attorneys at Law
1888 Century Park East
Suite 1520
Los Angeles, California 90067

RONALD G. REES,
ARTHUR L. RALSTON
Attorneys at Law
DAVID RAY, ESQ., *Receiver*
8920 Wilshire Boulevard
Suite 500
Beverly Hills, CA 90211

RALPH H. NUTTER, ESQ.
KAPLAN, LIVINGSTON, GOODWIN,
BERKOWITZ & SLEVIN
450 North Roxbury Drive
Beverly Hills, CA 90210

PALAZZO & KESSLER
10100 Santa Monica Blvd.
Suite 1370
Los Angeles, CA 90067

HARNEY & MOORE
DAVID M. HARNEY, ESQ.
650 South Grand Avenue
Suite 1200
Los Angeles, CA 90017

TROY, MALIN & POTTINGER
MAYNARD J. KLEIN, ESQ.
1801 Century Park East,
16th Floor
Los Angeles, CA 90067

MORGAN, WENZEL & MCNICHOLAS
W. MARSHAL MORGAN, ESQ.
1545 Wilshire Boulevard
Suite 800
Los Angeles, CA 90017

ERVIN, COHEN & JESSUP
ALLAN BROWNE, ESQ.
9401 Wilshire Boulevard
9th Floor
Beverly Hills, CA 90212

HORVITZ, GREINES & POSTER
ELLIS J. HORVITZ, ESQ.
15760 Ventura Boulevard
7th Floor
Encino, CA 91436

IVERSON, YOAKUM, PAPIANO
& HATCH
ARNOLD D. LARSON, ESQ.
611 West Sixth Street
Suite 1900
Los Angeles, California 90017

RADER, HELGE & GERSON
Union Bank Bldg., Ste. 706
201 S. Lake Avenue
Pasadena, California 91101

Appendix X

Helge Declaration (Filed August 20, 1979)

DECLARATION OF RALPH K. HELGE

I, RALPH K. HELGE, hereby state as follows:

(1) That I have firsthand knowledge of the facts herein stated and could and would competently testify thereto under oath if called as a witness.

(2) I am an attorney licensed to practice law in the State courts of Illinois and California; and am also admitted to practice in many federal appellate courts and the United States Supreme Court.

(3) I have served as attorney for the Worldwide Church of God for more than 20 years and have represented the Church and its subsidiary organizations, Ambassador College and Ambassador International Cultural Foundation, in numerous legal and other matters.

(4) I am also a graduate of the Church's theological and ministerial school, Ambassador College, and thoroughly knowledgeable of the ecclesiastical doctrines, teachings, customs and practices of the Church.

(5) I also serve as Secretary of the Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

(6)

(a) I am personally acquainted with Robert L. Kuhn and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Dr. Kuhn in the past served as personal assistant to the Executive Vice President of the Worldwide Church of God, as Executive Assistant to the President of Ambassador College and as an Executive Director of the

Ambassador International Cultural Foundation. He also served as a director of the Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation.

(b) I am personally acquainted with C. Wayne Cole and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Mr. Cole in the past served as Director of Pastoral Administration from 1974 to 1976 when he was transferred to Canada to serve as Director of the Canadian Office. He served in this capacity until he was transferred to Pasadena, California, in April, 1978, where he again served as Director of Pastoral Administration until January, 1979.

(c) I am personally acquainted with David L. Antion and knowledgeable of his association with the Worldwide Church of God and its affiliated organizations. Mr. Antion in the past served as Director of Pastoral Administration from 1972 to 1974. In September of 1976, he was made Director of College Relations until the Spring of 1978. During this time he also served as Pastor of the Auditorium A.M. Headquarters congregation and taught theology classes at the College.

(7) In their position and in the course and scope of their employment they had access to and received private, internal, confidential, ecclesiastical, financial and sensitive Church and ministerial related documents belonging to the Worldwide Church of God and its subsidiary organizations.

(8) I have been informed and believe that Robert L. Kuhn, C. Wayne Cole or David L. Antion have possession,

custody and control of certain documents set forth in Exhibit A. Further, I have been informed and believe that the Attorney General is demanding the opportunity to inspect and copy all of said documents.

(9) I have cursorily reviewed the documents and the inventory of the same, a copy of the inventory is marked "Exhibit A," attached and incorporated herein and made a part hereof as though fully set forth.

In my opinion, such documents are properly, legally and theologically, described by the following three categorical headings:

I. Financial, Internal, Confidential, Religious Documents of the Worldwide Church of God, Inc. (WWCG), Ambassador College (AC) and Ambassador International Cultural Foundation (AICF).

II. Religious, Internal, Confidential Documents of the Worldwide Church of God, Inc. (WWCG), Ambassador College (AC) and Ambassador International Cultural Foundation (AICF).

III. Miscellaneous Documents.

(10) The documents described under Roman numerals I and II in Exhibit A have never been generally disseminated to the public.

Further, it is my opinion that the following numbered documents described in Exhibit A also fall within the attorney-client privilege: 116, 186, 188, 195, 196, 197, 199, 200, 201, 203, 204 and 205.

(11) As an attorney who has had many years of training and experience involving church-state related matters, it is my opinion that the Attorney General has no jurisdiction whatsoever to obtain these documents, that any order grant-

ing to the Attorney General the right to obtain, inspect and copy said documents would be in violation of (a) the prohibition against State involvement and entanglement in religious affairs, (b) the prohibition against state action which has a chilling effect on the free exercise of religion on the part of the Worldwide Church of God, its subsidiary organizations, and of the members and affiliates.

(12) This affidavit is also intended to serve as notice to the Attorney General, any of his deputies or agents and any and all other persons who have possession, custody or control of the documents described in Exhibit A to the effect that it is hereby demanded that they not deliver or otherwise disclose said documents or their contents to any other person or organization other than the Worldwide Church of God, Ambassador College, or Ambassador International Cultural Foundation, respectfully, or the agent duly authorized by them. That in the event said documents are delivered or otherwise exhibited to any other person or organization or in the event the Attorney General, his deputies or agents review said documents, appropriate legal action will be taken for violation of the rights herein set forth and any other rights the Worldwide Church of God, Ambassador College or Ambassador International Cultural Foundation, its officers, directors, employees or affiliates may possess.

Executed this 20th day of August, 1979, at Pasadena, California.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ RALPH K. HELGE
RALPH K. HELGE

I. FINANCIAL, INTERNAL, CONFIDENTIAL, RELIGIOUS DOCUMENTS OF THE WORLDWIDE CHURCH OF GOD, INC. (WWCG), AMBASSADOR COLLEGE (AC) AND AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION (AICF).

Kuhn

1. AC internal expenditure report on special projects and grants for the period 1/1/70—12/31/73, dated 2/20/74
2. Letter from City of Pasadena, Assessor to Dr. Kuhn, dated 9/3/74 re real property appraisal
3. Internal memo from Sherwin McMichael to Garner Ted Armstrong, dated 4/15/75, re financial evaluation of AC campuses, the college's relationship to the church, and certain ministerial and faculty personnel matters
4. AICF Internal Preliminary Financial Report for the period 5/75-4/76
5. AC-WWCG Internal Financial Report dated 12/14/76
6. Internal Summary of Major Media Financial Activities, dated 3/14/76
7. Internal Projected Cash Flow for AC and WWCG for period 3/76-8/76
8. Internal Memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/21/76, re Falcon Aircraft Leases
9. Internal Cash Investments Summary for 76/77 dated 5/10/77

10. Internal Preliminary Financial Report for AICF/WWCG for the period 5/1/75 to 2/29/76
11. Internal AICF Telex from Henry Cornwall to Stanley R. Rader, dated 10/27/76, re a complete update on all aspects of Quest/77
12. Internal Cash Receipts and Disbursements Report for AC/WWCG for 6/1/75-2/29/76, dated 3/5/76
13. Internal projected cash receipts and disbursements report for AC/WWCG for the 6 months period of 3/76-8/76
14. Internal Financial Income Comparison of AC/WWCG for the period ending 12/17/76, dated 12/20/76
15. Combined AC/WWCG Monday Morning Financial Report, dated 12/20/76
16. Internal memo from Dennis Stauffer to Ray Wright, dated 12/20/76 re AC/WWCG bank balances
17. Internal Financial Income Comparison of the WWCG for Monday 12/20/76
18. Internal memo from Ray Wright & Dr. Kuhn to Garner Ted Armstrong, dated 4/25/77 re suggested budget reductions
19. Internal memo from Ray Wright to Garner Ted Armstrong, dated 8/11/77, re AC 5-year allocation study
20. An internal note re computer service to AC, dated 9/16/77, with no author noted
21. AC Internal Campus Planning Study, dated 10/24/77

22. Internal financial study of Big Sandy campus, dated 11/77
23. Internal 25-year financial study of WWCG, dated 11/77
24. Internal cash flow memo from Glen Parker to unknown individuals, dated 11/3/77
25. Internal memo from Ed Bodo to Ray Wright criticing Glen Parker's Quest accounting study
26. Internal financial study comparing costs of operating various sized AC programs, prepared for President Armstrong, dated 12/14/77
27. Internal financial cost analysis of Quest/77, dated 12/31/77 and prepared by the Cost Accounting Section
28. Internal financial AC/WWCG general services allocation re AICF for 1977
29. Internal financial document projecting AC/WWCG revenues and summarizing the budget for 77 to 78
30. Internal financial cash flow record for WWCG for period 77-78, dated 1/17/78
31. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 2/2/78, re financial commitment to Quest
32. Internal financial document comparing the income of 1976 to 1977 for WWCG, dated 1/9/78
33. Internal memo from Ray Wright to Stanley R. Rader, dated 1/18/78 re cash flow

34. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 2/1/78, re Stanley R. Rader's employment contract
35. Internal memo from Publishing to Stanley R. Rader, dated 11/3/78, re non-direct mail promotion of Quest/78, including financial backup
36. Copies of Dr. Kuhn's annual receipts for contributions to WWCG
37. Internal memo from Stanley R. Rader to Ray Wright, date unreadable (12/13/??) re professional audit standards as relates to J. Kessler's firm
38. Internal financial document suggesting budgetary reductions, undated
39. Internal financial document explaining AICF financing and ticketing procedure, undated and unsigned
40. Internal memo from Stanley R. Rader to Garner Ted Armstrong with unreadable date (12/13/??) re Henry Cornwall as CPA and Business Manager

Antion

41. Internal memo from Jack McKinney to Jim Johnson, deputy controller, 12/7/73, regarding 1974 budget revisions
42. Internal memo from the Church Administration Department to Jim Johnson, deputy controller, dated 12/7/73, regarding the impact of budget cuts
43. Internal memo from George Geis to Frank Brown, secretary-treasurer, dated 12/10/73, regarding the tuition schedule for Imperial Schools

44. Internal preliminary budget summary of AC and WWCG for 1974 prepared by the financial staff and submitted to Frank Brown, dated 12/10/78
45. Internal schedule of discretionary items for the AC-WWCG 1974 unapproved budget plan, dated 12/10/73
46. Internal budget summary by functions of AC, WWCG for calendar years 1973-74, dated 12/10/73
47. Internal memo from J. D. Carruthers to all faculty members, dated 4/23/76, regarding faculty promotion policies
48. Internal fact sheet on financial aids to students, dated 9/20/76
49. Internal financial aid application for international students at AC, undated
50. Internal confidential listing of employees of the College Relations Department, dated 12/14/77
51. Internal confidential listing of employees for the College Relations Department, dated 1/16/78
52. Internal confidential listing of employees for the College Relations Department, dated 1/16/78 (not a duplicate of item 51)

Cole

53. Internal financial report of expenditures for Pastor General Department, including the period 7/1/75 to 6/30/76 prepared by the Accounting Department and dated 7/6/76
54. Internal financial statements of Ambassador College for the year ended 12/31/76, dated 3/25/77

55. An internal financial report showing U.S. income, membership and Plain Truth circulation since 1955 and prepared in 1978, author unknown

II. RELIGIOUS, INTERNAL, CONFIDENTIAL DOCUMENTS OF THE WORLDWIDE CHURCH OF GOD, INC. (WWCG), AMBASSADOR COLLEGE (AC) AND AMBASSADOR INTERNATIONAL CULTURAL FOUNDATION (AICF).

Kuhn

56. Internal memo from Dr. Kuhn to Garner Ted Armstrong, date 5/21/71 re Plain Truth article
57. Internal memo from Dr. Kuhn to Frank Brown, dated 6/23/71, re literature attacking the teachings of the Church
58. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 6/28/73 re internal ministerial and spiritual decisions

58a. Letter from J. Kessler to H. Cornwall, dated 12/20/76

59. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 7/1/73, re internal personnel and spiritual decisions related to No. 58
60. Internal memo from John Hill to Garner Ted Armstrong, dated 7/10/73, re spiritual and other qualifications for the job of Senior Editor of the Good News magazine
61. An anonymous letter to Mr. Garner Ted Armstrong, undated, expressing support for the church during spiritual trial

62. Letter from Dr. Kuhn to Martin Bernheimer of L.A. Times, dated 1/2/75 re aim and function of WWCG, AC, AICF
63. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 3/7/75, re expressing the need for good communication between them and God
64. Internal memo from Stanley R. Rader to Garner Ted Armstrong dated 4/29/75, re explaining the development of AICF as it relates to the church
65. Internal memo to Garner Ted Armstrong, unsigned, dated 9/8/75, re Osamu Gotoh
66. Internal memo from an anonymous group of "WCG" to Tony Hammer, dated 3/16/76, expressing spiritual and doctrinal questions
67. Internal memo from Dr. Kuhn to contributors to Systematic Theology Project dated 6/1/76 explaining assignments
68. Internal document explaining the purpose of Quest magazine, relating it to the commission of the church, dated 6/3/76
69. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 8/27/76, re personnel structure in AICF
70. Internal memo from Dr. Kuhn to Roderick Meredith, dated 8/30/76, explaining his spiritual viewpoint on various matters
71. Internal memo from Ray Wright to Stanley R. Rader, dated 9/21/76, marked confidential regarding termination of an employee

72. Two copies of internal telex from Herbert W. Armstrong to Stanley R. Rader, undated, re personnel matters, one of which is the termination referred to in 71.

73. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/21/76, re the state of the work

74. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/22/76, re reorganization of the field ministry

75. Internal transcript of Mr. Rader's remarks at an all employee meeting 1/18/77

76. Telex to Bob Kuhn from Frank Schnee, dated 3/6/77, re Mr. Armstrong's opportunity to preach the Gospel in Persia

77. Letter from John Ebinger to Stanley R. Rader, dated 3/14/77, re the doctrinal advisability of liquor advertising in Quest

78. An internal draft on the doctrine of healing, dated 4/20/77, apparently prepared by Garner Ted Armstrong

79. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 4/21/77, re accreditation

80. Internal memo from R. Kuhn to Stanley R. Rader, dated 4/21/77, re personnel matters as they relate to accreditation

81. An internal draft regarding the advisability of local church buildings dated 10/9/77, prepared by R. Kuhn

82. Internal memo from Stanley R. Rader to Dr. Kuhn, dated 10/17/77, re leadership of the work

83. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 10/28/77, re doctrinal matters and support of the work

84. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 11/11/77, re personal misunderstanding between them

85. A copy of an envelope and a sarcastic letter made to appear like one of Mr. Armstrong's letters to the brethren, dated 11/30/77, sent to us by a church member showing that someone else was making use of our church logo

86. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 11/17/77, re personnel changes

87. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/8/77, re personnel changes

88. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 12/10/77, re personnel changes

89. Memo from H. Cornwall to Herbert W. Armstrong, dated 1/18/78, re his relationship to the church

90. Internal memo from R. Kuhn to Garner Ted Armstrong, dated 1/30/78, re purpose and objectives of AC as it relates to the church

91. Internal memo from Garner Ted Armstrong to Stanley R. Rader, dated 2/2/78, re employment contracts

92. Internal draft of an agreement of settlement and mutual release between Worldwide Advertising and WWCG, dated 2/23/78

93. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/4/78, re personnel

changes and Garner Ted Armstrong's line of authority in the church

94. Page proofs of the booklet "The Doctrines of the Worldwide Church of God" which has never been published. The page proofs carry a date of 5/9/78

95. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 5/18/78, re recommendations for the school of ministerial and biblical studies

96. Internal memo from Garner Ted Armstrong to Ray Wright, dated 5/20/78, re various internal personnel and organizational matters

97. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/20/78, re the sale of the Big Sandy campus and other organizational matters

98. Internal memo from Garner Ted Armstrong to Herbert W. Armstrong, dated 5/26/78, re his acceptance of certain decisions by his father as to duties in the church

99. Internal memo from Stanley R. Rader to Garner Ted Armstrong, dated 6/9/78, re rumors about Stanley R. Rader

100. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 6/25/78, re explaining the history and purpose of Systematic Theology Project

101. Internal memo from Stanley R. Rader to Ray Wright, dated 6/30/78, re church involvement with Quest/78

102. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 7/14/78, re Kuhn's responsibilities in the church

103. Internal memo from Dr. Kuhn to Stanley R. Rader, dated 8/17/78, re suggestions of personnel changes to coordinate the media effort

104. Internal memo from Dr. Kuhn to Rod Mcredith, dated 7/14/78, re Dr. Kuhn's responsibilities in the church

105. Internal memo from Dr. Kuhn to Stanley R. Rader, dated 8/17/78, re personnel suggestions leading to a work-wide team

106. Internal memo from B. Schippert to Dr. Kuhn, dated 8/25/78, re the Church's Outreach program

107. Internal memo from Stanley R. Rader/Robert L. Kuhn to Herbert W. Armstrong, dated 8/31/78, re media and subscriber analysis showing what built the church

108. Internal memo from R. Kuhn to Stanley R. Rader, dated 9/21/78, re book *The Real Jesus*

109. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 11/2/78, re responsibility for the Systematic Theology Project

110. Internal memo from R. Kuhn to Herbert W. Armstrong, dated 11/2/78, re responsibility for Systematic Theology Project (nearly identical to No. 109)

111. Internal memo from R. Kuhn to Stanley R. Rader, dated 11/3/78, re Plain Truth on television

112. Internal memo from Stanley R. Rader to R. Kuhn, dated 11/6/78, re Systematic Theology Project

113. A copy of the first page of the church's internal *Pastor's Report* dated 11/8/78, re How Christ Gives the Church Its Doctrines

114. Internal memo from Walter Rupp to R. Kuhn, dated 12/4/78, re the German-language work

115. A copy of the first page of the church's internal *Pastor's Report* dated 12/27/78, re Kessler's accounting firm and ministerial changes

116. Internal memo from G. Warner to Ralph K. Helge, dated 1/7/79, re Kuhn's termination (attorney-client privileged communication)

117. Memo from "The Coalition for Student Rights" to Ron Kelly re AC policies, undated

118. Internal memo from Stanley R. Rader to Garner Ted Armstrong (undated), re personnel matters

119. Internal draft of a letter from Herbert W. Armstrong to the membership of the church (undated) re his health

120. Draft of an administrative announcement by Herbert W. Armstrong regarding personnel changes (undated)

121. Draft explaining the purpose of the Systematic Theology Project study on healing. It is undated and the author is unknown

122. Draft summary of the Systematic Theology Project healing paper, undated. The author is unknown

123. Internal draft of letter from Garner Ted Armstrong to unnamed individuals, possibly the membership, undated

124. Internal draft of a policy statement by Herbert W. Armstrong regarding the School of Biblical and Ministerial Studies, undated

125. Internal draft of the outline of the Systematic Theology Project, undated and author unknown

126. Undecipherable telex Jan, 1975 re AICF concert series

127. Letter from J. Bistritzky of Arthur Rubinstein Int'l Piano Master Competition to Maestro Carlo Zecchi dated 4/6/75 re AICF

128. Similar letter to Dr. Kuhn dated 4/17/75

129. Letter in French from J. Bistritzky to Maestro Arturo Benedetti Michelangeli re the same matter as 127 and 128

130. Letter from J. Walter Thompson Co. to Dr. Kuhn dated 4/22/76 re an original Jacob Lawrence work commissioned

131. Internal memo from Art Mokarow to Dr. Kuhn, dated 10/27/76, giving the itinerary for the Milwaukee concert

132. Telex from Pat Sprouse to Mr. Rader, dated 11/4/76, re itinerary for the Milwaukee concert

133. Letter from Universal Press Syndicate to Dr. Kuhn, dated 2/25/77, re commencement of contractual relationship

134. Letter from Tom Murdock, New Life Int'l to Garner Ted Armstrong, dated 7/8/77, re purchase of Big Sandy

135. Same as No. 134, dated July 19, 1977

136. Letter from Terry Dintenfass to Dr. Kuhn, dated 1/4/78, re a painting exhibition

137. Letter from Spelman College to Dr. Kuhn, dated 1/17/78, re exhibit Mr. Lawrence's painting

138. Letter from Dr. Kuhn to Dr. Kay Andersen, dated 6/7/78 re AC new Biblical Studies program

Antion

139. Index of periodical subscriptions of Ambassador College library, dated 6/72

140. Curriculum of the Department of Business and Economics revised as of 9/76

141. Business Administration major checklist and accounting option for the 1977-78 catalog, dated 9/76

142. Internal agenda of faculty meeting of 10/17/74

143. Notification of visit by Accreditation Committee, dated 10/23/74

144. Internal memo from Personnel Department to all employees, dated 7/7/75, regarding the procedures for handling work related injuries

145. Internal agenda of faculty meeting of 11/13/75

146. Internal agenda of the administrative council meeting of 12/10/75

147. Internal summary of the 5-year plan for behavioral studies at AC, dated 3/31/76

148. Internal agenda of the faculty meeting of 4/29/76

149. Internal agenda of the curriculum meeting of 8/25/76

150. Internal agenda of the curriculum meeting of 9/1/76

151. Internal agenda of the curriculum meeting of 9/21/76

152. Internal preliminary draft of the institutional self-study report, dated 11/76

153. Institutional Self-Study Report, dated 11/76

154. Internal 5-year plan for behavioral studies, AC, dated 12/10/76

155. Internal draft of letter from Garner Ted Armstrong to the membership of the church, dated 12/17/76, regarding the relationship of AC to the Church

156. Internal agenda of the Curriculum Committee meeting of 1/11/77

157. Internal personnel bulletin of 2/16/77 regarding employee health care procedures

158. Internal 5-year plan of behavioral studies at AC, dated 2/22/77

159. Internal mail summary for the week ending 2/25/77

160. Internal agenda of faculty meeting of 4/21/77

161. Letter from Anderson of WASP to Garner Ted Armstrong regarding urgent accreditation problems, dated 7/21/77

162. Internal agenda of faculty meeting of 9/1/77

163. Internal draft of a proposed recruitment plan for 77-78, dated 9/15/77, author unknown but typed on David Antion's college stationery

164. Employee salary status change, dated 12/26/77

165. Internal draft of faculty procedures and responsibilities prepared by the Vice President for Academic Affairs and carrying various approval dates through 12/77

166. Internal memo from Garner Ted Armstrong to all employees, dated 01/3/78, regarding tithing policy

167. Internal employee termination clearance, dated 3/3/78

168. Internal employee termination statement, dated 3/10/78

169. Internal memo from the Executive Board of Trustees to all full-time faculty, dated 4/11/78, regarding the transfer of faculty members to Big Sandy

170. Internal memo from Dibar Apartian to Garner Ted Armstrong, dated 4/11/78, regarding the French ministry

171. Internal memo from Garner Ted Armstrong to Dibar Apartian, dated 4/25/78, regarding the French ministry

172. Internal memo from David Antion to Herbert W. Armstrong, dated 7/7/78, regarding difficulties in Mr. Antion's ministerial responsibilities

173. Internal memo from David Antion to Herbert W. Armstrong, dated 8/7/78, regarding Mr. Antion's removal from teaching at AC

174. Copy of the internal Pastors Report, dated 10/3/78, covering various ministerial and administrative matters

175. Internal memo from David Antion to Herbert W. Armstrong, dated 2/20/79, regarding Mr. Antion's possible reinstatement to the ministry

176. Internal personnel policy regarding travel, undated

177. Copy of internal personnel policy regarding moving, undated

178. Copy of internal employee termination form, undated

179. Copy of internal employee hiring-clearance form, undated

180. Copy of internal employee status/payroll change form, undated

181. Internal doctrinal committee distribution list, undated

182. Internal draft of Church Festival Procedure, undated

183. Internal list of Board of Trustees, undated

Cole

184. Copies of Mr. Cole's W-2 forms from 1970 through 1978

185. Internal memo from Mr. Cole to all ministers, dated 11/25/76 regarding a major change in editorial policy for the Church

186. Internal memo from Ralph K. Helge to Mr. Cole, dated 1/17/77 regarding power of attorney to conduct the work of the Church in Canada (attorney-client privileged communication)

187. Internal memo from Wayne Cole to Charles Bryce (minister) dated 1/31/77, enclosing a copy of a letter, same date, he wrote to another minister regarding difficulties with someone in the congregation

188. An internal memo from Ralph K. Helge to C. Wayne Cole, dated 2/2/77 regarding authority to use Church's bank account in Canada (attorney-client privileged communication)

189. An internal policy document dated 3/16/77 regarding reasons for termination of faculty, author unknown

190. Telex from Mr. Cole to Mr. McCullough, dated 3/19/77, regarding organization of the French work

191. A telex from J. Kessler, dated 5/25/77, regarding changes in the law affecting foreign source income

192. Internal memo from Wayne Cole to the Canadian ministers, dated 6/9/77, regarding Church Festival assistance

193. Copy of a letter from Mr. Cole to the membership in Canada, dated 5/30/77, regarding Church Festival

194. Internal memo from Stanley Rader to Church Directors, dated 7/5/77 announcing an annual meeting

195. Internal memo from Ralph K. Helge to Wayne Cole, dated 7/18/77, forwarding a copy of the minutes of the Board meeting of 7/12/77 (attorney-client privileged communication)

196. Internal memo from Ralph K. Helge to Wayne Cole, dated 8/5/77, forwarding a resolution for Mr. Cole's signature regarding purchase of the Falcon (attorney-client privileged communication)

197. Internal memo from Ralph K. Helge to Wayne Cole, dated 8/18/77, regarding a resolution for purchase of the Falcon (attorney-client privileged communication)

198. Internal memo from Stanley R. Rader to the Board of Trustees, dated 9/14/77, calling a Board meeting

199. Internal memo from Ralph K. Helge to Herbert W. Armstrong dated 9/16/77, regarding a resolution of

indemnification in the Soll case (attorney-client privileged communication)

200. Internal memo from Wayne Cole to Ralph K. Helge, dated 12/16/77, requesting a renewal of power of attorney for Mr. Cole to do the Church's work in Canada (attorney-client privileged communication)

201. Internal memo from Ralph K. Helge to Wayne Cole, dated 2/20/78, forwarding resolutions regarding changes in the Board of Directors (attorney-client privileged communication)

202. Internal memo from James Stark, Business Manager, AC, to Wayne Cole, dated 3/1/78, forwarding some suggested organizational and policy changes for AC

203. Internal memo from Ralph K. Helge to Wayne Cole, dated 3/28/78, regarding auditors (attorney-client privileged communication)

204. Internal memo from Ralph K. Helge to Herbert W. Armstrong, dated 4/21/78, forwarding resolutions of the Board of Directors of WWCG (attorney-client privileged communication)

205. Internal memo from Ralph K. Helge to Herbert W. Armstrong, dated 4/21/78, forwarding resolutions regarding AC (attorney-client privileged communication)

206. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 5/1/78, regarding organization of the Church and College

207. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 5/1/78, regarding organi-

zational structure of AC and the Church and related to the subject matter of 206

208. Internal memo from Wayne Cole to Herbert W. Armstrong dated 5/5/78, regarding ministerial development and training

209. Internal policy statement by Herbert W. Armstrong, dated 5/11/78, announcing organizational changes discussed in documents 206 and 207

210. Internal memo from Wayne Cole and Ray Wright to Herbert W. Armstrong, dated 5/16/78, regarding ministerial organizational changes in the international work (two versions of the same memo—one may be a draft)

211. Internal memo from Richard Rice to Ray Wright, dated 5/24/78 regarding factors affecting decreased growth pattern in the work and Church

212. Internal memo from Ray Wright to Wayne Cole, dated 5/25/78, forwarding copies of previously published letters by Mr. Armstrong on the subject of secular approach to religious message

213. Internal memo from Dibar Apartian to Wayne Cole, dated 6/2/78, regarding recommendations about the work of the Church in the French language

214. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/8/78, placing Garner Ted Armstrong on a leave of absence for spiritual reasons

215. Internal memo from Herbert W. Armstrong to all ministers, dated 6/14/78, announcing Garner Ted Armstrong's leave of absence

216. Internal memo from Herbert W. Armstrong to the top administrative team, dated 6/23/78, regarding Garner Ted Armstrong's leave of absence and organizational changes in the Church as a result

217. Internal memo from Herbert W. Armstrong to Dr. Wainwright, dated 6/23/78, regarding organizational changes in the ministry of the French work

218. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/26/78, disfellowshipping Garner Ted Armstrong

219. Internal memo from Wayne Cole and Robert Kuhn to Herbert W. Armstrong, dated 6/27/78 regarding re-establishment of proper spiritual priorities in ministerial training program of the College

220. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 6/27/78, regarding the response to Mr. Armstrong's sermon

221. Internal memo from Wayne Cole to all ministers, dated 6/28/78, exhorting the ministry in their spiritual responsibilities

222. Internal memo from Herbert W. Armstrong to Garner Ted Armstrong, dated 6/29/78, regarding retirement status

223. Internal memo from Wayne Cole to Raymond McNair, dated 7/2/78, regarding cooperation between them in their spiritual duties

224. Internal policy statement, dated 7/2/73 (this date is correct), regarding disagreements with other individuals in the Media Division. This document appears

to have been an attachment, or reference material, used in preparing item 223

225. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 7/3/78, informing Mr. Armstrong and the matters of disagreement mentioned in memo 223

226. Internal memo from Wayne Cole to Raymond McNair, dated 7/5/78, another longer version of 223

227. Internal memo from Wayne Cole to Raymond McNair, dated 7/5/78, a large-type version of No. 226, probably intended as a copy to Herbert W. Armstrong but apparently not sent

228. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 7/6/78, regarding divisions within the ministry of the Church

229. Internal memo from Dr. Kuhn to Raymond McNair and Rod Meredith, dated 7/10/78, congratulating them on their appointments

230. Internal memo from Robert Kuhn to Dr. Meredith, dated 4/17/78, regarding possible disagreements between the two pertaining to Church matters

231. Internal memo from Robert Kuhn to Herbert W. Armstrong, dated 4/17/78, bringing Mr. Armstrong up to date on the same matter as No. 230

232. Internal memo from Wayne Cole to Raymond McNair, dated 7/6/78, regarding concerns about several major areas of the Church

233. Internal memo from David Antion to Herbert W. Armstrong, dated 7/14/78, regarding what the Bible has to say about false witnesses

234. Internal memo from Ron Lohr to Wayne Cole, dated 7/16/78, regarding organizational matters in the Florida area of the Church

235. Internal memo from Stan Bass to Wayne Cole, dated 7/17/78, regarding the condition of the churches in the Caribbean area

236. Internal memo from Bob Smith to Wayne Cole, dated 7/18/78, expressing his respect and support to Mr. Cole in his responsibilities in the ministry

237. Internal memo from Norman A. Smith to Wayne Cole, dated 7/19/78, regarding the condition of the churches in the northern California area

238. Internal memo from John Ogwyn to Wayne Cole, dated 7/21/78, regarding the state of the churches in South Texas

239. Internal memo from Larry Neff (minister of the Tucson Church) to Wayne Cole, dated 7/21/78, regarding ministerial policies

240. Internal memo from Hal Baird (minister) to Wayne Cole, dated 7/21/78, regarding the ministry of the church

241. Internal memo from Ed Smith to Wayne Cole, dated 8/22/78, regarding the state of the churches in the Cincinnati area

242. Internal memo from Norman Smith to Herbert W. Armstrong, dated 8/27/78, regarding the condition of the churches in Northern California and the Pacific Northwest

243. Internal memo from Ed Smith to Herbert W. Armstrong, dated 8/31/78, summarizing his ministry and support for Mr. Herbert W. Armstrong

244. Internal memo from Jack Pyle to Herbert W. Armstrong, dated 8/31/78, regarding the healing and faith doctrines

245. Internal memo from Jack Pyle to Wayne Cole, dated 9/1/78, regarding problems in the ministry

246. Internal memo from Ed Smith to Herbert W. Armstrong, dated 9/1/78, regarding the condition of the Cincinnati area churches

247. Internal memo from Dennis Pyle to Herbert W. Armstrong, dated 9/1/78, regarding the condition of the churches in the Kansas City area

248. Internal memo from John Hammer to an unnamed addressee, dated 9/1/78, regarding the status of the churches in the Nashville area

249. Internal memo from Norman Smith to Herbert W. Armstrong, dated 9/4/78, regarding the state of the churches in the Sacramento area

250. Internal memo from Carl McNair to Herbert W. Armstrong, dated 9/4/78, regarding the state of the churches in the Minneapolis area

251. Internal memo from Paul Flatt to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the Atlanta area

252. Internal memo from Burk McNair to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the Charlotte, North Carolina area

253. Internal memo from Elbert Atlas to Herbert W. Armstrong, dated 9/5/78, regarding the state of the churches in the New York area

254. Internal memo from Guy Englebart to Herbert W. Armstrong, dated 9/6/78, regarding the state of the churches in the Cleveland area

255. Internal memo from Dean Wilson to Wayne Cole, dated 9/7/78, regarding the state of the churches in Australia

256. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 9/7/78, regarding book publishing as an integral part of the church's commission

257. Internal memo from Wayne Freeman to Herbert W. Armstrong, dated 9/14/78, regarding Mr. Freeman's ministry and the ministry of the church in general

258. Internal memo from Steve Martin to Herbert W. Armstrong, dated 9/19/78, regarding the state of the churches in the Pasadena area

259. Internal memo from Tony Hammer to Wayne Cole, dated 9/19/78, regarding Mr. Hammer's ministry

260. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 9/19/78, regarding the effects of Garner Ted Armstrong's activities on the churches

261. Internal memo from Cordull Hull to Bob Fahey, dated 11/14/78, regarding some top ministers in the organization of the church

262. Internal memo from Paul Kurtz to Wayne Cole, dated 9/15/78, regarding the ministry to prisoners

263. Internal memo from Wayne Cole to Stan Rader, dated 11/20/78, regarding a ministerial personnel change

264. Internal memo from Stan Rader to Herbert W. Armstrong, dated 11/22/78, regarding the ministerial personnel change mentioned in 263

265. Internal memo from Wayne Cole to the ministry (and its prior draft), dated 11/22/78, regarding the importance of the Foundation to the commission of the Church

266. Internal memo from Colin Adair to Wayne Cole, dated 12/4/78, regarding the state of the churches in the Philippines

267. Internal memo from Martin Bode to Wayne Cole, dated 12/8/78, regarding the state of the churches in Germany

268. Internal memo from Wayne Cole to Herbert W. Armstrong, dated 12/27/78, regarding Stanley R. Rader's status in the church

269. Internal draft of a press release by Herbert W. Armstrong, dated 1/3/79, regarding C. Wayne Cole

270. Internal draft of press release from Wayne Cole, dated 1/4/79, regarding cooperation with the Attorney General's office

271. Internal memo from Wayne Cole to all employees, dated 1/4/79, regarding spiritual responsibilities of the employees to cooperate with the state

272. Mailgram from Wayne Cole to all ministers, dated 1/4/79, summarizing the event of 1/3/79 and forwarding copies of items 269 and 270

273. Mailgram from Herbert W. Armstrong to the ministry worldwide, dated 1/5/79, rescinding Mr. Cole's appointment as acting chief executive officer

274. Internal memo from Wayne Cole to Rod Meredith, dated 1/9/79, expressing Mr. Cole's support of Mr. Meredith

275. Internal notes by Mr. Antion for use in a meeting with Herbert W. Armstrong on the advantages of a center for marriage and the family, undated

276. Internal draft of a memo from Stan Rader to unnamed persons regarding salaries of Mrs. Herbert W. Armstrong and distribution of a portion of Mr. Rader's salary to his wife, undated

III. Miscellaneous Documents

Kuhn

277. Letter from Dr. Kuhn to the Religion Editor of World Almanac dated April 21, 1978 providing information on the church for publication

278. Two copies of Ambassador College catalog for the diploma in Biblical Studies program

279. One copy of Ambassador College catalog for a certificate of the ministry

280. One copy of AC catalog for Master of Arts in Religious Studies

281. S.Ct. 78-1720—Petitioners' reply to Attorney General's response to application for stay of receivership

Appendix X—Helge Declaration

282. Letter from Robert L. Kuhn to Lawrence Tapper, dated Jan. 8, 1979 forwarding Dr. Kuhn's disfellowship letter to Mr. Tapper

283. Letter from Steven Andrews to Dr. Kuhn, dated 3/15/79, re items belonging to the Church held in Dr. Kuhn's possession

284. Internal balance sheet for Environmental Plastics, dated 2/28/78

285. Internal memo from Ray Wright to Dr. Kuhn forwarding the financial statement for Environmental Plastics, dated 6/22/78

286. Letter from Jack Kessler to Ray Wright and Dr. Kuhn, dated 8/18/78, re auditing of Environmental Plastics

287. Reimbursement Agreement from Ray Wright to Dr. Kuhn re Environmental Plastics

288. Security Agreement to WWCG from Dr. Kuhn, dated dated 10/9/78 transferring 25 shares of Environmental Plastics

289. Memo from Robert Kuhn to Ray Wright resigning as a member of the board of directors of Environmental Plastics, dated 3/29/79

290. Internal memo from Dr. Kuhn to Bernard Soll, dated 9/10/75, re record cabinet storage

291. Agreement between Dr. Kuhn and Ray Wright, dated 3/29/79, transferring Dr. Kuhn's stock in Environmental Plastics to Ray Wright

292. Copies of telephone bills for Dr. Kuhn, dated 5/18/79

Appendix X—Helge Declaration

293. Internal report summarizing Quest subscriptions from 7/78 to 6/79, dated 10/79

294. Copies of Dr. Kuhn's W-2 forms

295.) Four financial statements for Ocean Life Magazine

296.) and Music Magazine (may be personal documents

297.) used by Dr. Kuhn)

298.)

Antion

299. Copy of AC News (an alumni newsletter), dated 4/78

300. Letter from Judge Weisman, receiver, to Herbert W. Armstrong, dated 1/18/79, eliciting cooperation between the two

301. Financial aid application for students from foreign countries, copyright 1976 by the College Entrance Examination Board, apparently used in conjunction with item 66

302. Copies of Mr. Antion's W-2 forms for 1977 and 1978

Cole

303. Copy of the original complaint in the *People* v. *WCG*, dated 1/2/79

304. Memo from Mr. Cole to Mr. Chodos forwarding his personal notes regarding telephone calls with Herbert W. Armstrong, dated 1/29/79

305. Copy of subpoena duces tecum for Wayne Cole, dated 5/7/79

Appendix Y

Excerpts From Transcript of Taped Receivership Meeting (Filed January 4, 1979)

Reporter's transcript of proceedings taken from cassette tape of meeting re Receivership of Worldwide Church of God held at 12:00 o'clock noon January 4, 1979, at Pasadena, California.

(Unintelligible conversation sotto voce)

Judge Weisman: Good afternoon. I'm Judge Steven S. Weisman. I'm a retired Superior Court judge and have been appointed Receiver in this proceeding instituted by the Attorney General. Can you all hear me? I—I hate to start this meeting with what looked like a funeral procession, but I got this polio when I was 40 and I haven't been able to shake it. I want to explain to you why I'm here and what we're trying to do. And very briefly I want to read you a press release that was just received and handed to me by Mr. Cole, over the signature of Herbert Armstrong.

You see, whenever charitable funds are used, the user of those funds, whoever it is, is under the jurisdiction of the Attorney General of the state of California. They have some kind of control, because those receipts of charitable funds must be used for charitable purposes. And that makes sense.

Now, this is not what we call an adversary proceeding. This isn't John Doe vs. John Smith: who wins and who loses. What has happened is that the Attorney General, who is a disinterested third party, a law enforcement officer of the state, has filed this action. No individuals have filed this action. The Attorney General has filed this action, and their deputy, Mr. Tapper, is here; and also my own attorney, Mr. Clemens, is here. Mr. Tapper, would you rise, please, so they can identify you. And Mr. Clemens.

Ordinarily a Receiver is not appointed until there is adequate notice to both sides. But here there are no both sides. The Complaint merely wants an accounting. The Complaint says that there have been allegations that there has been a misuse of charitable funds. That's what the Attorney General claims. All the Complaint wants is access to the records to prove or disprove that. No damages are being sought. Nobody's suing the church. Nobody's out to get anybody.

Ordinarily a Receivership is not granted without notice, because, let's say you and I were in business together, and I owned half the business and you owned half of the business. Well, if you—if you ran out and got a Receiver, that Receiver would be taking my property away without notice to me. In this case nobody's taking any property. In fact, we're trying to save property. So it's not an adversary proceeding.

Our whole goal is to find out—the Attorney General wants to find out—if these allegations are true. If they're true, it ought to be stopped and controlled. If they're not true, there's no harm done, except for the publicity; I'll admit it's not good. But there would not have been the publicity that we had if we'd had cooperation, which we did not have until I gratefully received a call from Mr. Cole about a half hour ago. And I want to at this time read a statement that Mr. Cole read to me over the phone. I'm sure you all know Mr. Cole. Those who don't, raise your hands. (Laughter.)

This is a press release that he read to me. It's dated January 3rd, on the letterhead of the Worldwide Church of God. Press release: "I have been shocked beyond measure

to learn of the raid on our executive offices in Pasadena this morning initiated from the state of California Attorney General's office." Again, nobody's suing. The Attorney General wants to find out. "I know little of the facts as yet. The Worldwide Church of God and Ambassador College are both upstanding institutions, and we are people of integrity. If any improprieties have existed in either institution, I want them to be known, and I shall take every effort to cooperate with the Attorney General's office. We are an institution of 46 years' standing. We have many departments and branch offices around the world. We employ many hundreds. I have, of necessity, had to entrust responsibilities to various officers under me. I am appointing Mr. C. Wayne Cole as acting chief executive officer under me until this crisis has passed. Mr. Cole is director of—of—of—of—of Pastoral Administration over our ministry worldwide."

And—And I can't tell you how—and—and it's signed Herbert W. Armstrong. I can't tell you how pleased I am to have Mr. Cole aboard. Up to now—what—what the people—I think everybody over there was acting in good faith. It's bound to scare somebody when—when auditors come in and everything like that. But keep in mind what we're trying to do is to preserve, not to take. If the audit comes out fine, no problem. But if there has been a raid or a siphoning off, you are the first that ought to know about it and be interested in it. You; not us. I'm an impartial officer.

I'm—I'm a retired judge—I thought I was retired (laughter) after 21 years of serenity on the bench (laughter). And I—I want to do the job for the court. The court appointed me and I have a bond out. The court appointed me and my

job is to see if any of these claims are valid. Period. That's all.

Anybody who wants to see a copy of the Complaint—I'm gonna give Mr. Cole the whole—the whole package when I'm through—shows that the prayer, you know, what you ask for in the Complaint, is what you want from the defendant. Here the people only want an accounting. If there's no (unintelligible) if there's no defalcation, fine. If there is, you want to know. And that's why we were rather surprised to have all this animosity yesterday. But, thanks to Mr. Cole and his cooperation and the press release, I think we will—we'll have smooth sailing. I want to get out of here, too. I'm supposed to be retired. (Laughter.)

Now, keep in mind this, too. That when the judge appointed me the Receiver, I am in charge. I, for all practical purposes, am in charge of the financial operations of the organization—of all the organizations. The bank accounts have to be changed, and—and the checks will go out under my signature. So, I think even if you don't like me, or even if you do (laughter), let your pocketbooks speak, because you ain't getting a red cent (laughter) until I sign them. As I say, I want to get out of this as soon as possible. We all do. Because it's like operating under a—under a sword of Damocles, so to speak.

Now, if you have any questions, I'll be glad to answer them. Now, I'm—Actually, I'm representing you. I'm the Receiver for the people of the state of California. And it's not an adversary proceeding. Now, I—I'll welcome any questions you want. Yes, sir.

Mr. Herlofson: Could you just describe, in summary, what will take place and what length of time (unintelligible).

Appendix Y—Excerpts From Transcript of Taped Receivership Meeting

Judge Weisman: Well, what will take place is this: The state already has auditors over there going over the books. That's the main thing: to find out what the financial status is. There are certain allegations of siphoning off. And it's all in the Complaint, the exhibits to the Complaint. I don't know if you've seen it, but they're all in there. They want to find out if there has been any dipping. Period. When the audit's through, we're through. I live way out in Beverly Hills. I don't want to come to Pasadena every morning. It's cold over here. (Laughter.) So, we—we all have a common goal. And if I could only have gotten that across to some people yesterday, we wouldn't have had the trouble we did. I think now we have all that behind us, thanks to Mr. Cole. Any other questions? Please, I welcome them. Yes, sir.

Mr. Quincer: Yes, sir. I'm with the Television Department, and we're in the process of various projects and we are on the brink of needing to make commitments for, or not for, certain money allocation which are a month or two down the road, but they would be in contractual form.

Judge Weisman: Well, I'm gonna take Mr. Cole's advice on all these. He's the executive officer. He is the operating officer in charge. "Executive officer", that's a navy phrase, isn't it? (Laughter) So what? No; so, any—any questions of any nature, because I'm not familiar with anything, except the—the financial auditing aspects, and I'm not too familiar with that, but any questions you have, Mr. Cole or—What is—What is your name, sir?

Mr. Antion: David Antion.

Judge Weisman: Antion. —Antion will be glad to help you. Any other questions? Yes, sir.

Mr. Lipross: Sir, I'm over the publishing area, here.

Appendix Y—Excerpts From Transcript of Taped Receivership Meeting

Judge Weisman: The what?

Mr. Lipross: I'm over the publishing area, here. Does that mean that our normal business transactions will continue, our normal contractual arrangements with the printers and so on will continue as before?

Judge Weisman: Oh, yes.

Mr. Lipross: So then we haven't frozen--I was asked here this morning by one of our main printers. (Unintelligible) One of our main printers here asked me this morning—they're very concerned—if we're going to pay our bills next week. (Unintelligible.)

Judge Weisman: We're gonna pay all the operating bills. They'll be subject to review. I mean, if you run up a—a thousand-dollar bill at Gucci's or something (laughter). Any other questions? Yes, sir.

Dr. Hoeh: I should like to inquire, rather bluntly, as to the legality of Mr. Cole's role, on the assumption that Mr. Armstrong had full authority to make such an appointment (unintelligible).

Judge Weisman: Well, whether or not Mr. Armstrong had the authority, I have delegated him as the chief executive officer.

Dr. Hoeh: Thank you.

Judge Weisman: And I want that—to borrow a political phrase, "I'd like to be perfectly frank" (laughter). All right, thank you for your cooperation. I appreciate it very much.

Mr. H. Chodos: I wonder if perhaps the Attorney General, Mr. Tapper, might just explain a little bit from the standpoint of his office.

Judge Weisman: Oh, yes. I'd like to have Mr. Tapper explain about this, because he knows much more about it

than I do. I just got into this picture—two days ago? Is that all? Two days. All right. This is Mr. Tapper, a deputy attorney general.

Mr. Tapper: You notice the suggestion came from Mr. Chodos, not from me. I used to be in the army, so I know you never volunteer. (Laughter) I don't think that there's too much to add to what Judge Weisman has said. He explained the basic jurisdictional basis for our being here. We're not here to disrupt the church or the college or any of the other activities. It should be business as usual. As a matter of fact, one of the press asked me does this mean that this won't be a going business any more. And I said, "No, it means that we are very interested in that it not be going somewhere we're not aware of." And so that's what we're doing, is taking a look at the books. From your standpoints it will be business as usual. And if there are any questions at any stage, please don't hesitate. And if you wish to direct them to the Attorney General's office, my name is Lawrence Tapper; my telephone number is (unintelligible). I don't mind giving it to you because you won't be able to reach me. It's 736-2001. (Unintelligible) Did any of you have any questions of me? Yes.

Mr. Snook: Mr. Tapper, will we have the opportunity to know who the other gentlemen are and what their function is, and what their business out here today is? Is it possible that we can know who those other gentlemen are?

Mr. Tapper: Uh, not all of them are gentlemen. (Laughter) I don't see any problem. Next to Judge Weisman is Mr. Chodos, who is an attorney for the relators in this actions. And—

Mr. Clemens: Michael Clemens.

Mr. Tapper: —Mr. Clemens, I understand—I haven't even met him yet—is counsel for Judge Weisman and—

Mr. R. Chodos: Mrs. Campodonico.

Mr. Tapper: —the young lady is with Mr. Chodos—

Mr. R. Chodos: Mrs. Campodonico.

Mr. Tapper: —Mrs. Campodonico; which reminds me of my old friend Darius Apollodopodopolous (laughter). And we have Rafael Chodos, also with Mr. Chodos. Yes.

Mr. Schnippert: In the eyes of the state, what constitutes a misuse of funds? That sounds like a judgmental matter. Is there a legal definition of it?

Mr. Tapper: Uh, there are various types of misuse. We all think of diversion of assets as out-and-out thefts. But there is—in trust law there are far higher obligations owed by the people who are in control of properties than they would owe if it was just their own property. And in the field of nonprofit law, all those who are officers and directors and employees are, in a sense, trustees of this property.

So you can get into sophisticated diversions through self-dealing, for example. If one were a fiduciary of this institution and were engaging his own firms and paying them money, that might be a case of self-dealing and that might apply in this case.

Voice: (Unintelligible.)

Mr. Tapper: There are excesses that can occur in terms of salaries and other financial remunerations uh, the Complaint alletes, and it will be a matter of extablishing support. And according to a deed we discovered, the tax stamp showed that Mr. Rader's home in Beverly Hills was recently sold for a million and eight hundred thousand dol-

lars. The part that alarms me is that it was purchased with church funds. These are things that we need to take a look at; as I say, the various aspects of possible mishandling. Yes.

Voice: In the event that any improprieties are discovered, what would happen then?

Mr. Tapper: That will depend upon what we discover. I—I cannot possibly answer the question as it would apply to the thing you're most interested in: this case; but I can tell you from past experience that have a broad range of remedies, which may include the return of real property or the surcharge of individuals, which means getting money out of them. It may involve removal of individuals permanently as trustees; injunctions against them. There—

The law is very protective of institutions such as yours, on the theory that the institution itself and all of those who run the institution are standing in a position of trust, the property being truly owned, not by the institution or individuals, but rather the people of California. This one here.

(Unintelligible.)

Mr. Tapper: There is a prayer in the Complaint also which you might want to be aware of. It is our understanding that for many years these institutions have been run rather autocratically. Uh, California law provides that there should be opportunities for meetings of the members of a nonprofit organization; and that there should in connection with these meetings be opportunities for members to express their will through selecting the people who head the institution. I'm not aware that any of this has occurred in this case.

And the prayer has asked that, at some appropriate time, procedures—which will be totally court supervised—there will be nothing done by the Attorney General or the Receiver or Mr. Chodos or the relators—it will be done by the court—an opportunity to put the institution back on more traditional footing. But this, too, will not affect the—as far as we can foresee—the operation of the institutions at all. Yes.

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Appendix Z

Excerpts From Reporter's Transcripts, Proceedings in Los Angeles Superior Court (January 2, 1979—November 26, 1979)

The *Ex Parte* Hearing to Appoint a Receiver

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 267 607

THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.*,
ALVIN EARL TIMMONS, *et al*,

Plaintiffs,

vs.

WORLDWIDE CHURCH OF GOD, INC.,
a California Corporation, *et al*,

Defendants.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

January 2, 1979

[1] (The following proceedings were had in chambers:)

The Court: This is the matter of The People of the State of California, and others, versus Worldwide Church of God. Case Number C 267607.

Mr. Tapper: Lawrence R. Tapper for the California Attorney General.

Mr. H. Chodos: Hillel Chodos and Raphael Chodos for the Relators.

Mr. Gibson: Hugh John Gibson for the relators.

Judge Weisman: Steven S. Weisman.

The Court: All right. I have had an opportunity to read the Complaint; I have read the memorandum of points and authorities, quickly; I have read the declarations of Mr. Chodos, Mr. Gibson, Mr. Chapman, Mr. Morgan, Mr. Timmons, and Shirley Timmons.

Mr. H. Chodos: Your Honor, I wanted to interrupt just to state for the record, a copy of the proposed pleadings was furnished to you this morning. The original is in my briefcase. It has not yet been filed, but we are prepared to file it and pay the necessary fee at any moment.

It is just that we did not want a public filing before coming to see you. I spoke to the clerk this morning and told him we would talk about that.

The Court: Well, we are going to have to get it filed if I am going to grant you any relief, as I am sure I don't have to tell you, Mr. Chodos.

[2] Mr. H. Chodos: Yes, Your Honor. I just wanted to explain.

The Court: What I have read, obviously, are copies of documents which counsel furnished me. I am concerned about the scope of the relief that is sought.

I am concerned about the ex parte nature of the proceedings, and the rather majestic order which would flow from these proceedings without a hearing. I am not unmindful there are charges that dissipation of the properties may occur, and I am also not unmindful of the one cruncher, if you will, which is the proposed sale of the Big Sandy property on January 4th, or the proposed completion.

I have read the declaration pretty carefully. The rest of the matters, and some of the supporting data, obviously, in the length of time afforded to me, I have barely skimmed

through; some of the financial matters which are referred to in one of the declarations—I guess it is Mr. Chapman's declaration—are matters which I have just glanced at; obviously, I haven't digested those in any form.

I would like to be enlightened, perhaps, about how far my writ runs in the first place. Can I really do anything about a real property transaction which is going to close, apparently, in Texas? I don't have anybody before me, as I understand it. I will have somebody before me if I issue this order in due course. Presumably, Mr. Rader or Mr. Herbert Armstrong or somebody will be served.

Let me hear from the Attorney General or from Mr. Chodos, whoever is carrying the ball here.

[3] Mr. H. Chodos: If I can just make a few observations. First of all, I recognize that any request for an ex parte receiver, without notice, has to be viewed against a strong presumption that it is an emergency measure to be used with great caution.

I would suggest to you, however, that at least insofar as pertains to the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., that the usual principles are not applicable.

All of those corporations are organized and existing under California law, exclusively for charitable, religious and educational purposes.

It is our position that a shorthand way of describing the law applicable to the corporations of that type is that their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court on the application of the Attorney General. In effect, there are no private interests.

The Court is not taking something away from somebody or interferring with anyone's private rights. In effect,

what we are saying is that there are presently trustees who have been allowed to manage the charitable fund on a day-to-day basis.

There is reason to believe, as we have shown you, that they have not done their job in a faithful manner. We believe that essentially those trustees serve at the Court's pleasure, and may be replaced with a more trustworthy [4] trustee.

The Court: I don't have any quarrel with that up to there, and I think you make a prima facie showing that there may be some serious problems in the administration of this trust.

Mr. Chodos: Now, turning to how far the Court's writ runs. I am inclined to believe that the Court's writ does not run to land outside the State of California.

The Court: I learned it only runs halfway across the dining room table, so as my children want to point out to me, let alone past the State line.

So you have got to give me a little jurisdiction and a little power if you want some help.

Mr. Chodos: It does run, however, to all persons within the Court's jurisdiction, and particularly, to charitable trusts which are organizing and existing under the State of California.

In fact, this Court, as I understand it, is the only court that has complete jurisdiction and supervision over the affairs of these three charitable corporations.

Now, it may be that you will appoint a trustee for these funds, Judge Weisman, and that he will then be confronted with the claims of third parties in Texas.

Now, he, after all, will stand only in the shoes of the present trustees. His rights and privileges will be no greater or no less, and he may have to submit to demands

by the people if they are meritorious, or litigate them if they are questionable, or resist them if they are not. But [5] he has to do that in the name of and on behalf of the charitable funds and this Court.

Now, the real problem, therefore, I don't know what can be done if the land has cnaged hands by the time we get to it, we may have to sue to rescind in the Texas courts.

It is my understanding that a receiver has, under that statute, the power to sue and be sued in other actions on behalf of the interest he represents.

The Court: The order which would be drawn appointing him can specifically grant him that power, and he may have it inherently.

Mr. H. Chodos: That is right. Furthermore, I believe that—Well, let me say, what we are asking here—and it may be that the order—the temporary order perhaps should be more limited in scope than the order to show cause. The one thing that is clear to me that you have the power to do is to appoint a receiver for the three charitable corporations. The other corporations we have named are alleged to be fronts, depositories of charitable funds.

We have substantial reason to believe that that is true and that we can prove it. But it may be that the taking control of those entities and the interference with those entities ought to be postponed until after a hearing has been held.

But for the charitable corporations themselves, we have a substantial chance of emmence dissipation in the immediate future. And in the nature of things, we believe [6] that it would be much more costly, and ultimately, therefore, an unnecessary drain on the charitable trusts to put the receiver in the position of having to rescind a consummated transaction when he might be able to avoid an unconsummated transaction.

Now, I will point out to the Court, too, that if the transaction is not consummated, the chances are good of litigating this matter in California. If they are consummated, the chances are good we will have to litigate it in Texas.

My experience with Texas law is that they have a somewhat different view of the applicable principles than the California courts, and it takes a little while getting acclimated to it.

Now, I don't know if I have answered Your Honor's question about the scope of your writ and the extent of your jurisdiction.

The Court: What about the ex parte nature? I read your moving papers, I read your moving declaration, and someone seems to be alarmed at the potential for file shredding or the destruction of documents or records.

Mr. Tapper: Maybe I could dispel that, Judge.

The Court: Go ahead.

Mr. Tapper: I am reminded of the words of Shirley Hufstedler when she was in the Court of Appeal, and it was no more certain as to the plaintiff's rights in terms of their being finally defined as it is here, but there is strong reason to be suspicious, and she said, "What the defendant [7] suggest is that the plaintiff should take a taste to determine whether it is a mushroom or a toadstool." And that is essentially what we are faced with here.

Nobody can tell Your Honor how many pieces of paper are being shredded per minute, per hour, per day.

The Court: If any.

Mr. Tapper: If any. We do believe that they are being shredded. We don't believe that the information that there

is a shredder in his offices is fictional; but by the same token, we haven't seen the shredder.

The Court: There can also be ligitimate uses for them, although maybe we ought to tell the city attorney that.

Go ahead.

Mr. Tapper: I suppose. But the records we are talking about are public records, just as the assets that Hillel, in describing the charitable organizations, are also public assets.

I share the thought that perhaps it will be premature to use these remedies ex parte as to non-charitable entities at this time, but I am very concerned about the Big Sandy transaction. I am very concerned about the evidence that has been presented to us of some fifty—I haven't seen all the deeds—but it is alleged that there have been fifty real estate transactions in a period of five to six months. That works out to ten per month. So if it is just merely on an averaging basis, there is a virtual certainty that there are going to be some more pieces of real estate that are going to change hands, and that, again, is going [8] to be even further litigation trying to recover the property.

The Court: These are pieces which, as I recall it, have stood in the name of one or more of the charitable corporations and being deeded out to individuals.

Mr. Tapper: That is correct. Ambassador College, for example. I believe that the case of People versus Christ's Church of the Golden Rule is practically on all fours.

I think that what has been presented to us is sufficiently strong that we must take immediate action.

A great deal of effort went into bringing this to Your Honor as early as it has been brought to you, and I would urge the Court to favorably consider the relief, at least as to the charitable entities.

Mr. Chodos: May I add just one thing. People versus Christ's Church of the Golden Rule deals—we quoted extensively from it—emphasizes the difficulties of a plaintiff in the position of the Attorney General or the Relators where information has been withheld. It emphasizes the discretion of the court to grant ex parte relief where the circumstances justify it. But, furthermore, and most important, I want to emphasize that the usual impediment to granting ex parte relief does not exist here.

Normally, in a private property situation where you grant ex parte relief, the court is put in a position of attempting to interfere with someone's rights, and to stop people from doing things that they would otherwise do with their own property, and maybe create great havoc to private interests that have not had an opportunity to be [9] heard, and that is the power that should be exercised with great skepticism and great reservation.

In this case, however, there are no private transactions. In other words, if you appoint an ex parte receiver, all that is going to happen is that he is going to take custody of the records and preserve them; take custody of the money and preserve it; take custody of the causes of action and preserve that; and he is going to be prepared to come back into this court, at any time starting tomorrow morning, that you want to make returnable, or that counsel wants to come in here for an ex parte conference, to vacate the order and talk about it.

But in the interim, what I am really trying to emphasize to you is there is no one whose interests can be hurt. Only protection can be granted by an ex parte order, and there is—

The Court: Well, we could hurt some interests, according to the thrust of what you have spelled out. They would

be interests, if the moving papers are accurate, inappropriately acquired. So we are mindful of that.

Does the record reflect that Judge Weisman is here with us, Patty?

The Reporter: Yes, Your Honor.

The Court: It has been urged that this bowl of spiders be put in your custody. Before I get involved in orders or making orders or granting relief, are you willing to become involved in it?

Judge Weisman: Yes, I am.

[10] The Court: As a receiver?

Judge Weisman: Yes, I am.

The Court: And you see no impediment that would prevent you from acting, if you were thrust—

Judge Weisman: The only impediment I know of is my polio, and that won't prevent me—

The Court: You have managed pretty well with that for some time.

I will tell you on the record that I am a little queasy about putting somebody in charge, but I think you have a showing which warrants some relief.

I would like to discuss with counsel the temporary—proposed restraining order, or order to show cause, because I think we might want to chop it up a little bit in line with the suggestions that have been made about limiting the order to the charitable corporations.

I am addressing your attention to the proposed order appointing temporary receiver, temporary restraining order and order to show cause re receiver and injunction.

Mr. H. Chodos: Would you like to have original order just to work on?

The Court: Might as well work from a copy in case we change things. And we are going to want you to file as soon as we get this—

Mr. H. Chodos: I am prepared to do so.

The Court: Let's go through it with you. Let me see your Complaint, because it names the defendants. And I take it you want this order to run, so far as the order [11] to show cause is concerned, against everybody; is that right?

Mr. H. Chodos: Yes, Your Honor.

The Court: In line with the suggestion about limiting to the charitable corporations, I am looking at Paragraph, Sub-B, on Page 2, at Line 17. Would it be necessary, with that thought in mind, to have limiting language at that point?

Mr. H. Chodos: Well, it seems to me, Your Honor, that at the hearing on the order to show cause, after there is notice, the Court has power to extend the injunction to all the defendants, and that the proper time to limit it is when the responsive showing is made.

The Court: All right. In other words, what you are really saying is that the temporary restraining order is the only one which should be limited, the proposed temporary restraining order.

Mr. H. Chodos: That is our position.

The Court: All right. I have read your bond argument. Are you suggesting that despite what is contained on Page 3, at Line 5, that no bond is required at all?

Mr. H. Chodos: No, Your Honor. We believe that no bond—In a receiver action, there are two bonds. One is from the plaintiff—

The Court: You are talking about the receiver's bond?

Mr. H. Chodos: This is the receiver's bond, and I believe Judge Weisman must post a bond.

The Court: All right. What would you suggest that bond ought to be?

[12] Mr. H. Chodos: Well, the only thing I can say is this, Your Honor: There are $80 million of assets, which would be in Judge Weisman's charge. It is my view that you could put $80 million in crumpled $20 bills in Judge Weisman's briefcase and not worry about it.

The Court: Ruin his briefcase.

Mr. H. Chodos: Yes. It would be, in my opinion—I have spoken to a bonding agent who is prepared to provide a bond, within limits, and he tells me the likely premium is one percent of the face amount. The premium, of course, is a charge on the charitable trust.

I believe, under those circumstances, a relatively nominal bond for a temporary period is appropriate. I would say $1,000, or $10,000 whatever Your Honor considers nominal under those circumstances.

The Court: I am still impressed with $10,000 but I am going to make it a $10,000 bond, and that will, of course, be subject to an argument if this matter comes back to me.

Now, we will need to redraw, it seems to me, Paragraph 3, or will we?

I will hear from you about that.

Mr. H. Chodos: I think in view of Your Honor's remark, all that would need to be done is starting with the words "Wilshire Travel" on Line 13, and extending down to the words "in California" on Line 17, that if that passage would be deleted, that this would conform to what you have indicated.

The Court: That sounds like it would be appropriate, and I am physically deleting on the copy those portions which [13] which you suggest be deleted.

What is the soonest you believe you can get these people served?

Mr. H. Chodos: I am hopeful, Your Honor, making an order today, that we could have these people served by noon tomorrow. Most of them, I think, will not be evading service.

The Court: I will make it by January 4th, at 5:00 PM. Give you a little more time. So far as the return date, that is up to Ms. Follings outside.

Let me say this: Somebody is going to have a career as a judicial officer in this. I am not sure that the limitations which are imposed on this department by the workload, which I just looked at for the next calendar, will permit this matter to remain here.

I think you are going to need somebody in the nature of an all-purpose judge to take hold of this. Now, whether Judge Schauer will do that, whether he will want me to refer it ultimately to Judge Weil to be handled as an overflow matter, I am not sure.

I doubt very much, foreseeing what inevitably has to happen in this case, whether it can be comfortably accommodated on the 8th floor, and allow us to get any other work done, unless everybody caves in, agrees or elects a new board, or something remarkable will happen.

I think what I have indicated is what I will sign as soon as the appropriately filed papers are presented to me. And we'll set down your order, appoint Judge Weisman [14] temporarily, pending the return date.

Mr. Tapper: Do you want to pick a date? Pages 1 or 2.

Mr. H. Chodos: He wants Marjorie to do that.

The Court: I don't know anything about what our calendar problems are. I have a couple of personal calendar problems which invole—one of which involves the 26th of January, at least at current rating.

Mr. H. Chodos: The statute requires within ten days.

The Court: Is it ten? Let's get Marge and get the latest date we can give you. You better get it filed.

Mr. H. Chodos: Yes. If Your Honor please, if we can be excused, I'll go out to your table outside and prepare our papers, get the bond and make all those arrangements.

The Court: I will be here, I am sorry to say.

(Proceedings concluded.)

Excerpts From a Hearing on Continuing the Receivership

REPORTERS' PARTIAL TRANSCRIPT OF PROCEEDINGS

January 5, 1979—(P.M. Session)

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[18] • • •

The Court: Ladies and gentlemen, I am talking primarily to those of you behind the spectator rail, I appreciate your cooperation under very difficult circumstances.

I want you to know what has happened here tonight very briefly.

All of you, I am sure, have contributed money to your church to some extent or another. Your money is impressed with a trust purpose. When you gave that money, you wanted it to go to a particular purpose for a particular use, and by law, you are entitled to have the representative of the State, the Attorney General, make sure that your money has, in fact, and is, in fact, being put to the purpose for which you have given it.

[19] Now by all these proceedings tonight, I do not intend to imply whatsoever that there has been any misuse of your funds.

All I am trying to do by this order is to enable the Attorney General to make a proper investigation to ascertain that the funds have, in fact, been put to their proper purpose.

I thank you very much ladies and gentlemen. I thank my staff for their heroic overtime.

(Proceedings concluded.)

Excerpts From Hearing to Clarify Receivership Order

REPORTERS' TRANSCRIPT OF PROCEEDINGS

Monday, January 8, 1979

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[7] * * *

Mr. Chodos:

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Mr. Browne would like to have Your Honor believe that this is some kind of adversary proceeding between two parties entitled to equal presumptions.

The People of the State of California, on the one hand, and Mr. Browne and his clients, whoever they may be, on the other hand. He has given us some hearsay declarations about whom he is entitled to represent. We know he represents Mr. Rader. He may or may not be entitled to represent the church. He may or may not be entitled to represent Mr. Armstrong. That all remains to be seen.

He said he is. He thinks he is. But it is simply not correct, Your Honor, that this is a civil lawsuit in which the processes of the discovery are a necessary preface to investigation of documents.

The Attorney General of the State of California, and his deputies, have not only the power, but the duty, at any time to investigate all the books and records, 100 percent of the books and records of any charitable, religious or educational organization because the Radio Church of God, now known as the Worldwide Church of God, derives its position, its existence, from the State of California.

Now those records do not belong to Mr. Browne; they don't belong to Mr. Rader; they don't belong to Mr. Armstrong. There are no privileges, constitutional or otherwise

of a charitable foundation against investigation by the Attorney General.

Now, Mr. Browne would like you to transmit this [8] receivership from what it was intended by this lawsuit and by the order that was made, which is a device for facilitating and assuring inspection by the Attorney General, into a device for frustrating that inspection and delaying it and confusing it.

In effect, what he is advancing to you is that this receiver should be a custodian in the sense of a janitor. He wants Judge Weisman to take these records into an office, put them in a box and then he wants to have a notice and a hearing and an argument, and three days and then a writ, and an appeal, and before we see any records, Your Honor, we will all be of such advanced age as not to be able to remember from one day to the next what is going on.

Now the point is, Your Honor, that Mr. Browne would like to have you believe that there are arguments to be made or rights to be protected on the part of his clients. There are no such rights.

I want to make something clear to Your Honor because I think it is important before you rule.

Not only from Wednesday to Friday night but since Friday night, Your Honor, there has been a massive, massive program of obstruction.

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Excerpts From a Hearing on Several Preliminary Motions

REPORTERS' DAILY TRANSCRIPT

Wednesday, January 10, 1979

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[7] * * *

Mr. Chodos: Because of the nature of the church, as a charitable trust, the relationship of the court to the church is unique.

Every other party who comes before the court has some claim to its own property, and has some right to resist intervention by the court. But for 700 years, Your Honor, it has been the law in England and America [8] that charitable funds are public funds. They are perpetually in the custody of the court. The court is the ultimate custodian of all church funds, just as the Attorney General has always been charged with the power and the duty to investigate allegations of misuse or even suspicions of misuse.

And the point that I am trying to make, Your Honor, is that the charitable funds is the res or subject matter of this proceeding. It isn't a party in the usual sense. It is in Your Honor's safekeeping. It has no interests to protect against the court.

Your Honor has the power and the discretion to safeguard and preserve those assets and the duty to do so. But the church, as a charitable trust, has no interest to protect here. It has no client. It is the court's funds and the court may remove and replace and substitute trustees at its pleasure.

Just as Judge Weisman would have no standing to oppose your decision to remove him, if you were to do it 10 seconds from now, he couldn't hire a lawyer to argue that he should remain in office.

Appendix Z—Excerpts From a Hearing on Several Preliminary Motions

So the trustees of that fund have no standing. And the fund itself, Your Honor, has no interest other than to be preserved and to be applied for the charitable uses for which it was created.

Your Honor is the advocate for the trust. Not Mr. Browne, not the Attorney General, but Your Honor. And I would submit to the court that to allow Mr. Browne [9] to speak for the church, to allow Mr. Browne to tell you what the church wants and doesn't want, when, in fact, he is committed to defend the man who is accused of improperly taking church money for his personal use, is an impossible situation for the court to be in.

And I would suggest that what Mr. Browne ought to do —we are here—I represent the relators, the Attorney General represents the People, and he and I are here to absent ourselves from felicity awhile to tell Your Honor this story.

It is Your Honor's responsibility, as we see it, to do whatever needs to be done to appoint receivers and other agents to do whatever needs to be done to preserve it and protect it, protect the assets and records, and no one has any basis to resist that intervention.

If there is the slightest hint or suspicion—and I submit to you have we have raised it by our papers in ample measure—if there is the slightest hint or suspicion of wrongdoing, let alone proof positive or proof by a preponderance, it is the court's duty, as I understand it, to see to it there is a worthy trustee installed, that an investigation is made, that the facts are exposed.

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Excerpts From Hearing to Confirm Receiver's Appointment

REPORTER'S DAILY TRANSCRIPT

Friday, January 12, 1979

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[350] • • •

Mr. Browne: I'll address myself to that, Your Honor.

One of those items they have alleged is a liquidation of assets. All right. And I assume that that would be one of the things you would be concerned about.

The Court: As far as the real property is concerned, I don't think they have made any substantial showing the properties were sold below market value.

Mr. Browne: Another thing they have alleged, that as part of this the church has lined their pockets and have liquidated a lot of these things to make it more easily to convert the money and property to their own use.

That was a bold conclusion. We have shown that all the money for all of the real estate transactions went into the church treasury.

Mr. Bickett testified to that. And we had the deposit slips on that.

I don't know if Mr. Chodos availed himself to look at that, but that was very significant.

In the other proceeding before Judge Foster, Your Honor, the Attorney General made the statement [351] that Ralph Helge had received a—$125,000 of the money and put it in his pocket from the Big Sandy transaction.

There is a half a million dollar down payment, you will recall, on that piece of property which is in escrow.

That was totally inaccurate. I don't know where he got that information.

Appendix Z—Excerpts From Hearing to Confirm Receiver's Appointment

But Mr. Bickett has shown all the money went into the church treasury. And we have the deposit receipts to prove it.

[352] The problem, Your Honor, is that they have made a lot of accusations, but when it comes down to the proof, they haven't got it.

And do you know why, Your Honor? I would submit it's because they never started their examination.

If they had come in and asked to look at books and records and begun an examination, maybe they would have been more enlightened. But instead they relied upon the information from dissident group church members. And this is a very, very important thing, Your Honor.

It turns out that of these dissidents, one of them, the relators, is married to the private executive secretary of Garner Ted Armstrong, who was disfellowshipped; another is married to Garner Ted Armstrong's brother's widow.

And there is a certain amount of fighting going on for control in this church.

And, Your Honor, the one thing in the world we would not want this court to do—and I don't think this court would want to do it—is to get involved in that decision-making process which in any way would hamper Mr. Armstrong.

The other thing that concerns me most about this, Your Honor, is the following.

I think the court would agree with me, I would hope, that there has not been one shred of evidence implicating Mr. Herbert Armstrong of any wrongdoing. The most the court could say was that he was overly [353] generous. I think that is—if you were going to say there was any

fault, that is what you would have to say, taken at its very best.

This man has spent 40 years developing this church. If a receiver is appointed, Your Honor, he's the man that is most effective. He's the spiritual leader of this church.

I think it's very important for the court to recognize that we are not dealing with IBM here, Your Honor. We are not dealing with a company that sells a product or a company that provides services.

There is no income of this church that is assured in any way.

The contributions are based upon one thing, faith. Faith in whom? Faith in their spiritual leader, Mr. Armstrong, who started this church in the 1930's.

There is no contract for God's faith. They come in at will.

And, Your Honor, if a receiver is appointed, no matter who it might be—Judge Weisman or any other person—that is going to put this entire church, in its 40-year history, in jeopardy.

Why? Well, you know, since this case started, this church has started to be called the Church of the Receiver instead of the Church of the World—Church—the Worldwide Church of God.

And the problem is that the membership that give God's tithes don't understand what a receiver means.

[354] They are middle American laymen. And I'm not accusing them of being in any way ignorant, but they are not by and large the sophisticated Wall Street bankers that many lawyers or people are used to dealing with.

And the problem is what they hear that Mr. Armstrong has a receiver at the Worldwide Church of God, or a

trustee, or anything else you want to call it, they feel that their spiritual leadership is in jeopardy.

And I would like to mention the feeling of these people is expressed in the declaration of Joseph Kotora, and what he says is basically that:

> "I and the thousands of church members whom I know fervently believe that God has commissioned Herbert W. Armstrong to spread the gospel of the kingdom of Christ where, when, how, through whom, and through what means Mr. Armstrong in his sole and absolute authority determines, and that Mr. Armstrong is accountable only to God for his decisions, both spiritual and temporal. No other person—receiver, referee, or otherwise—is entitled to determine, supervise, or influence how God's tithes are spent. Any attempt to do so is against God's will, and, consequently, I cannot, consistent with my faith, and will not continue to tithe or contribute any other moneys as long as any such receiver, referee, [355] or person other than Mr. Armstrong attempts to do so."

[356] Now, the importance of this is that you cannot separate the fact—

The Court: Excuse me. I am sorry, go ahead, counsel.

Mr. Browne: You cannot separate the fabric, Your Honor, of religious spiritual beliefs, and the way and the method by which that belief is disseminated. And Mr. Armstrong has developed this church and built it based upon the principle that he spreads the word of God and the word of Jesus in a particular way. And the one thing that the plaintiffs are complaining most about, which is

the spending sprees, I mean the extravagance of it, all the trips, and the Steuben crystal is what precisely has made this church and its members support Mr. Armstrong.

You know there is an old saying, Your Honor, different strokes for different folks. Some people may want to go out around the world and preach the gospel, you know, in tattered rags, using self-denial as one of the ways to do it, and others do it differently. And it seems to me that our country is broad enough to allow the people to decide for themselves.

What is most important here, Your Honor, is that there has been a complete open communication between Mr. Armstrong and the congregation, telling them what he is doing and how he is doing it. The film we looked at the other day actually presents that and indicates that very graphically.

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Mr. Browne:

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[360] Mr. Armstrong is a very prestigious spiritual leader. Why is the most drastic remedy available necessary?

These people have never been guilty of any kind of criminal wrongdoing to justify the presumption that they will not obey a court order.

The last point I would like to make, Your Honor, is that the mere imposition of a receiver will result in a great disgrace in the eyes of the membership, and discrediting of the spiritual leaders. This is not a corporation, in the sense that if IBM has a receiver put into it, or some other corporation, it can talk to the stockholders and explain to them that this is a temporary matter.

This is a grave imposition on the spiritual aspect as well. There are grave accusations made, and my feeling, Your Honor, is that before any great discredit occurs to these leaders, this court should be absolutely certain, absolutely certain of wrongdoing; not suspicion, but certainty, and that it should be thereby a preponderance of the evidence, and there has been no evidence of a substantial nature shown at this juncture, and that any resort to precipitous relief should await the time of trial.

The Court: Thank you, Mr. Browne.

Mr. Browne: Thank you.

The Court: Mr. Chodos.

Mr. Chodos: Thank you, Your Honor. Your Honor, I have to compliment Mr. Browne on the display of [361] virtuosity. He has spoken for a little over 30 minutes, and every single thing he said is wrong.

He started with the premise that we have a heavy burden of proof. And I suggest to Your Honor that that may be true in an ordinary receivership action between private parties, where private interests are at stake, but where charitable trusts are concerned, it is the opposite which is true.

Once the slightest showing sufficient even to raise the court's eyebrow has been made before the court to suggest that there may perhaps be improprieties in the administration of a charitable trust, the presumptions all operate the other way, and the trustee has the burden of coming forward and showing that everything has been fair and regular, and that burden, Your Honor, has not been carried and no attempt has been made to carry it.

Counsel tells you that a receivership is the most drastic remedy, and that may be where the court attempts to interfere with private rights.

In cases like that, the Fourteenth Amendment and the due process clause of the California Constitution interpose themselves between the court and the private party. But there are no private rights here.

This money is public money. This court is the guardian of it today; it was the guardian of it last week; it was the guardian of it in 1948; and it will continue to be the guardian of this money as long as the charitable trust continues to exist.

[362] And I would suggest to the court that it is no more drastic for the court to replace Mr. Rader as the custodian of this trust with Judge Weisman, than it would be for the court to replace Judge Weisman with someone else. This court has the power to remove and replace trustees of a charitable trust at its pleasure, in order to assure itself that there should never be the slightest question or possibility of dissipation of charitable trust assets.

And the reason for that, Your Honor, is that no one but this court has the power to do that. As Mr. Browne himself has pointed out, and as we have pointed out to you, the people who give this money—not Mr. Kotora, I am not going to speculate whether Mr. Kotora speaks for a hundred thousand members anymore than I am going to speculate whether the people who send me letters and telegrams of congratulations speak for a hundred thousand members. What I do know is that Mr. Armstrong and Mr. Rader and their henchmen, who are part of the palace guard who have been brought here to court to foist off their claims upon you, are the takers, not the givers.

The givers are the people all across the country who send in their tithes and their double tithes and their offerings, and that, Your Honor, is not because they have faith

in Herbert Armstrong, but because, I presume, they have faith in God, and because they have believed that Herbert Armstrong and the man he has [363] unfortunately chosen to deputize with control of this church are faithful trustees of God's work. And they themselves, as Your Honor sees in the moving papers, do not blush to remind people that this is God's tithe money.

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[384] The Court: All right, gentlemen. I am going to make some comments about this matter, to the extent my voice will hold out.

I think, first, I should point out that while it is self-evident—it has been mentioned many times—that I should make it very clear that the remedy which is being sought here by the plaintiffs and that of a receiver is a provisional or temporary remedy pending the trial. And, of course, it is for the purpose of preserving the assets and the operation.

The ultimate decision in the matter will be up to the trial court when this matter is tried.

For that reason I am, incidentally, going to order and I do now order that this matter be given precedence on the calendar for the purpose of trial, and that the counsel for the plaintiff is ordered forthwith to file a motion in Department 1, the master calendar department, to seek as early a trial date as is possible in this matter as a priority matter.

Now, because of the temporary nature of the remedy, it has not been practical for this court nor feasible for this court to hear a full-blown evidentiary matter, and that is the reason why I have attempted, the best way I could, to limit the oral testimony. All of that testimony, of course,

will have to be presented at the time of trial, and I am certain will be heard fully at that time.

Now, there isn't any question that the remedy [385] of a receiver, as has been pointed out by all counsel, is a harsh and drastic remedy. It is not to be utilized lightly, but nevertheless, is still one in the sound discretion of the court.

Now, bearing all of those comments in mind, it appears to me that the evidence before me that I have heard and listened to and looked at, including the exhibits, the written declarations, all the exhibits on the declarations, and the oral testimony have indicated the following:

Firstly, there are many serious charges which have been made here against the defendants, and in particular, against Mr. Rader, and even for that matter, Mr. Herbert Armstrong. And basically I think what they boil down to is there have been allegedly extraordinary sums of money which have been diverted for personal benefit, and, again, of the individuals; that valuable properties have been sold and disposed of and transferred for less than market value or for no consideration, and so on.

I don't have to go through the litany of what has been contended here. I think you are all familiar with it.

As I have already indicated, I believe it is not the duty of this court to finally determine those issues, but only to determine whether or not there is any reasonable likelihood that perhaps a trier of fact in the future in this, when this action is heard, will determine that there is some possibility of truth to these charges, probability of truth. And I have to [386] determine whether or not there might be irreparable damage or loss, in the interim, in a lawsuit in which a temporary remedy must of necessity at this time present.

I have also considered, of course, the possibility mere

injunctive relief might solve the problem. That is unlikely, and I really have discarded that as a possible remedy here, except in conjunction with others.

Now, I think I have already indicated in my comments to counsel during argument that I don't believe from the state of the evidence that the plaintiff has made any real showing of any substance that properties have been sold below market value.

The declarations which were filed by the plaintiff in this regard have indulged in sheer speculation, conclusion and hearsay regarding the sales, and those are contrary to the specific declarations of the defendants, and unless the appraisals of the defendants are shown to be unreliable or just completely untrue at the time of trial, I don't believe that the plaintiff will be able to establish that the sales heretofore made have been improper in any respect, at least solely on the basis that they were below market value.

[387] There may be other reasons, but certainly on the basis of market value, there really has been no showing. Nevertheless, there have some very serious questions raised here concerning the use and transfer of assets in the form of money and property to those in control of the church.

Again, the weight of the evidence and the final conclusions in regard thereto will have to be determined by the trial court. But I have heard enough, I think, during the course of these hearings, and from my examination of the documents, to at least give me some cause for concern and to lead me to the conclusion that pending the trial some restraints must be imposed on the operations of the church until the action, as I say, is finally determined.

Now, what have some of these questions amounted to? Well, firstly, there has been an astonishing amount of

money expended here by Messrs. Armstrong, Rader and others for many purposes, particularly in connection with so-called travel expense, the purchase of extensive gifts and so forth.

Now, certainly, some expenditures along that line are completely proper and permissible, and they are certainly within the discretion of those persons who are authorized to determine whether they should be made.

Of course, the persons have to be authorized, it seems to me—They have to be authorized to indicate [388] and decide what amounts of money should be expended. And the authority of those persons allegedly authorizing them have to be persons, as I say, who are in proper authority in the church.

These are questions which are open to, I think, some arguments, and will have to be examined very carefully at the time of trial.

Now, it can generally—with reference to the conduct of the affairs of the church, the administration of its assets and the expenditures over the last several years, and up to the present time—it seems to be conceded that in spite of the fact that the articles are filed in this corporation under the nonprofit clause of the State of California, and in spite of the fact there are specific provisions in the articles and bylaws which place control in the board of directors, it seems, nevertheless, to be conceded that for many years this was essentially a one-man operation, with Mr. Armstrong making all the decisions on a completely unilateral basis; and perhaps even more recently it has been a two-man operation, in the sense that both he and Mr. Rader are acting jointly. And of course, as you all know, there is some suggestion—at least there is an inference, because of Mr. Armstrong's possible inability to continue

with his activities, either because of advancing age or infirmity or disability of one kind or another—that perhaps it is now basically a one-man operation, again with Mr. Rader conducting the affairs of the church.

[389] All of these issues will have to be very carefully scrutinized by the trial court, and they all represent reasons why the court is concluding here that some restraints have to be placed on the conduct of the church business from this point forward, or at least until trial.

Mr. Chodos: Could you speak a little more in the microphone, Your Honor?

The Court: I will do the best I can. I am gradually running out of steam.

There have some serious inferences which have been also raised concerning various transactions between Mr. Rader and the church, from claims of self-interest, possible conflicts in interest; again all of those being problems which are going to have to be resolved in the trial court.

But there has been enough in the way of questions raised which, again, place the court on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the church. Some of these relate to his possible involvement in, for example, leasing aircraft to the church and having an interest in the leasing company; various other business dealings with the church. I am not going into those now in detail, but they all, again, will have to be examined by the trial court.

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The Court:

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[392] Now the court is fully aware of the potential damage which has been argued very ably by Mr. Browne, the

damage which might accrue to the church if the operations were brought to a halt or seriously interrupted by the appointment of a receiver and by injunctive means. And, of course, I have to do the best I can to balance this threat against what the plaintiff contends will be irreparable damage if this situation is permitted to continue.

I do note in that regard that while I think it is perfectly clear that there was some immediate and serious damage to the church when the receiver was first appointed, it seems to have geared up again. The computers are now operating again, and as I understand it, the operation is now presently back and it is operating—maybe not as efficiently as before because of the confusion caused by the receivership—but nevertheless it is operating.

Now, bearing all of these considerations in mind, and bearing in mind the history of what has occurred since the receiver was appointed, I am going to make the following orders in the matter:

Firstly, all prior orders regarding the appointment of the receiver and any restraining orders are vacated and dissolved.

Secondly, Judge Steven S. Weisman—under the assumption that he accepts the appointment—is appointed as receiver pendente lite in the matter of the three corporate defendants to carry out the duties which will be specified in this order.

[393] The three corporations—rather than name them each individually as we deal with this problem—will be just referred to by me as the church, generally.

Now, the receiver is to take possession and control of the church, including all of its assets, both real and personal, tangible and intangible, of every kind and description, except as I otherwise provide in the order.

Now, in spite of this order of possession, it is the further order of the court that all the authorized employees of the church shall be permitted to continue to carry out their duties and to continue all activities and operations of the church.

The receiver nevertheless shall have the right and power to supervise and monitor all of the business and financial operations and activities of the church; however, he shall not interfere therein, unless he determines in his sound discretion that such interference is necessary to avoid damage or loss to the church of any kind.

Now if he so determines, he shall then have the right to take over the management and control to the extent that he deems it necessary in his sole discretion.

Now the receiver is also empowered to hire and employ and retain his own counsel, accountants and any other personnel, employees which he deems necessary to assist him in the discharge of his duties under this order.

He is authorized to pay to them reasonable compensation out of the funds and assets of the church, subject to the supervision of this court as it is needed and as hereafter [394] provided.

Also except as otherwise provided in the order, with reference to Messrs. Armstrong and Rader, the receiver is authorized to suspend or terminate any employee, officer or agent of the church in his sole discretion as he deems necessary. That will be subject, however, to any contractual employment rights which the suspended or terminated employee or party may have.

And he shall also have the right to direct that any such officer or employee or agent not be permitted access to the

grounds or facilities of the church from and after the date of that termination or suspension.

Now it is not the purpose of this court nor the intention of this court to allow the receiver to interfere in any way with ecclesiastical functions of the church, as distinguished from the college or the foundation, and the receiver is orders not to do so.

[395] This receivership will concern itself exclusively with the financial and business affairs of the church. The ecclesiastical affairs of the church will continue to be controlled and directed by its duly authorized ecclesiastical authorities, notwithstanding the authority of the receiver to terminate or suspend persons from employment as already ordered.

Such termination or suspension from employment shall in no way affect the membership or standing in the church.

Now, in the event that any dispute arises between the receiver and the ecclesiastical authorities of the church over whether or not a particular matter is, in fact, ecclesiastical in nature, those authorities are authorized to employ counsel to apply to this court for a resolution of that dispute, and that dispute will be resolved by the court.

Any such counsel so employed may thereafter apply for reasonable compensation from the church funds to the court, and the court will make an order for reasonable attorney's fees, if they are justified under the circumstances.

Now regarding the books and records. The receiver shall have possession and control of all the books and records of the church, but those books and records shall

be made available for the use of the employees of the church in the carrying out of all their duties.

Those books and records shall also be made available to the representatives of the plaintiffs, [396] for use in preparing for the trial in this action.

I have already indicated, I believe, that while the receiver only has the right to supervise and monitor the business and financial operations, and shall not interfere unless he deems it necessary, that he shall have the right to interfere if he does determine in his own discretion that it is necessary to interfere. And to that extent he will have the right and it is so ordered that he has the right to take over any portion of that operation he deems necessary in order to protect the church and its assets.

Now Messrs. Armstrong and Rader will be permitted to continue in their prior functions as representatives and authorities of the church, unless and until they are, either of them, removed by proper action of the church, pursuant to the laws and the articles and bylaws of the church, or unless they are removed by further order of the court pursuant to an application on the part of the receiver.

Now if the receiver deems it necessary at any time hereafter pending the trial to move the court to remove either Mr. Armstrong or Mr. Rader or both, the receiver may file a petition with the court on notice to the defendants, and the court will hear the matter and make a determination on that issue.

However, subject to their rights under the existing employment contracts which they have—that in which Messrs. Armstrong and Rader have—to the [397] extent that those rights may be hereafter determined by the court, their compensation for services and any expenses that

are incurred by them during the course of that employment, shall only be in such amounts as may be determined by the receiver in his discretion from time to time.

The receiver is authorized to conduct a thorough audit of the financial and business dealings of the church, and to commence that audit forthwith. And he shall have the right to compensate his professional assistants in regard to that audit out of the church treasury, and it shall all be subject to supervision of the court as hereinafter provided.

The receiver is also to review all allegations of malfeasance and neglect concerning the financial and business affairs of the church, and to apply to the court where appropriate for leave on behalf of the church for any relief which may be necessary.

Now anything that I have said to the contrary, it shall not be necessary initially for the receiver to take possession of, nor to deposit in any special receiver's account, the funds of the church now or hereafter received by the church; but the receiver shall supervise the deposits and disbursements of the funds by the church in accordance with this order.

The funds of the church shall continue to be handled by its employees in the same manner and with the same bookkeeping, accounting and disbursement procedures [398] as were in effect at the time of the commencement of the ex parte receivership, subject to the supervision of the receiver. But in any event, the receiver in his discretion shall have the right at any time by notification to the court and the defendants to take possession and control of the funds of the church forthwith, and deposit them in a special receiver's account, if he deems it necessary. That

will be something completely in the discretion of the receiver.

Now, until there has been a final disposition of this matter by trial and an order of the trial court, the defendants and each of them and all of their agents, employees and all persons acting in concert with them are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the assets, properties, books, or records of the church; and they are further enjoined and restrained from selling, mortgaging, encumbering, or otherwise disposing of any of the assets of the church or its associated corporations.

Notwithstanding this injunction that I have just referred to, however, based upon the appraisal of the Big Sandy campus of Ambassador College at Big Sandy, Texas, as set forth in the declaration of Michael Wierwille of Valuation Research Corporation, of the sale of said real property for the sum of $10.6 million as provided for in the pending escrow covering that sale shall be permitted to go forward to a conclusion of said sale.

[399] Now it is the purpose and intention of the court under this order to secure the full cooperation of the church authorities and the employees with the receiver, and of the receiver with such authorities and employees to the end that the affairs of the church shall only be minimally interfered with until this action can be tried.

Now all the authorities and employees of the church are ordered to use reasonable efforts to extend that cooperation to the receiver.

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[406] Mr. Browne: May I suggest a problem. On Monday morning, the Attorney General comes in and says, "We want to look at that filing cabinet over there." Now, I haven't looked at the filing cabinet myself. I don't know what is in there.

How can I assert any objection if I don't know what is in there?

The Court: If I give you the right to go through all the records before they go through them, this will grind to a halt, and I will not do it, Mr. Browne.

Mr. Browne: So the Attorney General need only ask the receiver to open up whatever he has?

The Court: The same as you can do; you have the same rights.

Mr. Browne: Well—

The Court: You are counsel for the church, presumably, and you are counsel for the other defendants. You have the same rights to the documents as the Attorney General does.

Mr. Browne: That was not covered, Your Honor, I think in your order. That is what troubled me. You mentioned the plaintiffs' representatives had access to those documents, but there was no mention in that—

The Court: That is not correct. I said the defendants will have the full use of the documents, the church, which includes the defendants; does it not?

Mr. Browne: That does, Your Honor.

The Court: All right. They have full access [407] to the use of the records.

Do you have some comments you wish to make, Judge Weisman?

Judge Weisman: Yes, I would like to make a statement, if I can.

I am willing to live with that order, and I am willing to cooperate with Mr. Rader, and I hope it is a two-way street.

However, I would like some clarification as to what happens if I tell Mr. Rader I don't think this action ought to be taken, and I am going to apply to the court—

The Court: I don't think you have to apply to the court in every instance now. I have given you full discretion.

Judge Weisman: All right.

The Court: What I have done essentially here—as I would summarize it, Judge—is to provide that the management of the day-to-day affairs of the church are to be conducted by their employees, subject to your monitoring and your supervision.

If you determine something is out of order, out of line, you are entitled to take over on that, and it is your decision which you will control.

Judge Weisman: The burden is on the other side to come into court?

The Court: As far as I am concerned, I am leaving it up to you. I am inviting no one to come into court [408] with respect to those issues.

Mr. Chodos: Is that true that the Judge has discretion also if Mr. Rader—

The Court: You mean Judge Weisman?

Mr. Chodos: That Judge Weisman has discretion if he feels that Mr. Rader is not conducting himself properly to suspend him from his duties, as opposed to his pay, and have Mr. Rader come into the court to talk about it?

The Court: That is one instance which I indicated that if there is a desire to suspend Mr. Rader or Mr. Armstrong, that is the one matter which they may make a motion with the court.

Mr. Chodos: What happens in the interim?

The Court: I don't know what happens in the interim. You get in here in a hurry.

Mr. Chodos: Very well.

The Court: I don't think anything can be that crucial that you couldn't get into court. Come down informally and discuss it with me if you have to, with notice to other counsel.

Yes, sir?

Mr. Browne: Your Honor, two other points. I mentioned I had three.

Would the court be willing to make an order to preserve the confidentiality of whatever records are in the possession of the receiver?

I think during this investigatory period, [409] it is extremely important, for example, that the records remain in the possession of the receiver, and that if the Attorney General wishes to review them, that the Attorney General or its representatives be permitted to do so; but that, for example—and also the parties themselves—the relators, for example, that they not be given access to those documents, because those particular people—and I think the record is clear on this, at least there is conflict on it and I think an inference can be drawn—do not have the best interests of the church at heart insofar as the ecclesiastical nature of it is concerned.

The Court: They would argue with you on that, wouldn't they?

Mr. Browne: They might. But, Your Honor, we are talking about a very delicate subject here, and, you know, we are talking about—

Mr. Chodos: I can save counsel the trouble. My relators, Your Honor, have completed their function. For all practical purposes, they are no longer in this case. I don't go over the documents with them. This is a matter for the Attorney General. They are not parties to this lawsuit, and the Attorney General has no interest in religious factions, and neither do I.

[410] The Court: Do you wish to be heard?

Mr. Tapper: Yes, please. We are not talking about religious documents; we are talking about financial records. I have had some experience in how to conduct an investigation.

There is no way that we can conduct a proper investigation if we were to be given access to a record but we can't check the record by talking to somebody to see if the transaction occurred the way the record claims the transaction occurred.

I do not wish to see us crippled in the way Mr. Browne is suggesting.

The Court: I don't know what Mr. Browne has in mind, to be honest with you.

Mr. Tapper: He is saying he doesn't want us to show these records to anybody, and particularly to the relators, Your Honor.

The Court: I don't think it would be inappropriate to make an order to the effect you may show it to anyone who has a reasonable interest in it, who has a right to be concerned, and not to any strangers to the transaction.

Mr. Tapper: Your Honor, we certainly conduct our investigations with discretion.

The Court: I think you are raising an issue which is not an issue, Mr. Browne.

You have the cooperation of the Attorney General in that regard. They are not going to disclose these documents to anyone unless it is someone who has a reasonable interest in the documents and is connected in some way with the [411] transaction.

Mr. Browne: Could we have an order along the lines if they are going to disclose those documents to anyone outside of the Attorney General staff people working for them—

The Court: No, sir, I won't get into that.

Mr. Browne: May I finish?

The Court: I know what you have in mind. I am not getting into that.

Mr. Browne: I would like some notice, Your Honor, give us five days notice that they are going to have those records shown to these people.

The Court: I don't think it is necessary, Mr. Browne, and it is unduly hampering and creating more paperwork. This is going to be a mountain of paper as it is. We already have so many lawyers involved here that it is really unbelievable. I am not going to get into any more legal activity than is required.

I don't think that is reasonably necessary. Your motion is denied.

Mr. Browne has one more matter.

Mr. Browne: Your Honor, I woud like to request a stay order for a reasonable period of time for us to get

the transcript and take appropriate relief up to the State court of appeal also to the federal court.

The Court: That is denied, counsel. This has to be moved along.

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Excerpts From Hearing on Motion by Receiver

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Monday, January 22, 1979

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[42] Mr. Chodos: • • •

We hope Your Honor will give the Receiver the discretion to notify the world and the members that there is a court order that will be obeyed.

NAACP vs. Alabama is a red herring. All that happened in that case was that a showing was made that the State of Alabama might use the NAACP membership list to harass the members. There is no such claim here. We are looking for the membership list so that we can protect the members.

And let me say this and I'll stop.

I argued before you the first day we were before you that there was an inherent conflict of interest between Mr. Browne's devotion to Mr. Rader, his long-time client, and his purported representation of the church.

Your Honor, Mr. Rader has demonstrated in the last week—and I want to say that I understand that Your Honor has to have competent evidence because competent evidence takes weeks and months to collect and present—it is a matter of common knowledge of which the court can take notice that Mr. Rader, although he purports to speak for the church, is trying to wreck it, and we're trying to save it.

And I think that Mr. Browne ought to be relegated to representing Mr. Rader and stop all this nonsense about how he is looking at the church and the First Amendment rights of the members, and that the court ought to give

the Receiver the power he has been sent to do, and I urge the court to do [43] that this afternoon.

The Court: I have no intention of doing anything other than that, Mr. Chodos.

I think you recognize I'm going to move this matter along. I am not going to tolerate any delay or challenge to the powers of the Receiver. However, I've got to look at the other side of the coin, as well.

Now, insofar as the court is concerned, when we get to that matter of being in touch with the membership or the ministers, certainly, to the extent that it is necessary to protect the financial interests of the church, the court is going to give the Receiver the obligation and the duty to do so.

I'm leaving that in the discretion of the Receiver. I'm not going to attempt to run this operation. That is what the court has appointed the Receiver to do, and I don't have the time or the ability, at this stage, to attempt to run the affairs of the church.

I will make any orders. I have given the discretion to the Receiver. I assume that he is going to carry it out in good fashion.

Mr. Nutter: Can I say one thing?

The Court: Yes.

Mr. Nutter: Attached to Judge Weisman's letter, there is a letter he sent to Mr. Armstrong asking for a meeting. If it would not be imposing on the court, I think that will be helpful to see the letter attached to our declaration as Exhibit A.

[44] The Court: That is the January 18th letter?

Mr. Nutter: Yes, Your Honor.

We have received no answer to that letter.

Appendix Z—Excerpts From Hearing on Motion by Receiver

The Court: All I can say, as I say, no one is going to stand in the way of the court of proceeding with its duties. I think Mr. Browne recognizes that, and we're going to have to go on that assumption.

Mr. Browne: So I have it understood, is it the court's order that Judge Weisman, in his discretion, may use the membership list?

The Court: Yes. That is the order, when it relates to business and money matters of the church and all of the corporations that are involved here.

Mr. Browne: Can the court take notice of the fact that since the ministers and the members of their churches do not have any obligation to send money to this church or any other church, that when the Receiver—and I have a great deal of respect for Judge Weisman, but he is a judge, and he is a secular person, not one who has tried to develop a flock, based upon the spiritual flock—that a directive to the ministers to send your money to me, not purposely, but it is designed to upset the delicate balance between the church and the members and its flock.

The Court: Mr. Browne, may I interrupt you?

I made a ruling that he was going to have full control over those matters, and I was going to permit him to do so, and I am not going to change that.

Mr. Browne: May I make one point?

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Excerpts From Hearing on Bond to Stay Receivership

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Tuesday, February 13, 1979

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Mr. Tapper:

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When it is clear that the property that they're talking about having received is not received for them for their own use and enjoyment, the property doesn't belong to them. It belongs in trust for the benefit of the public. It would be absurd to even consider a bond in the amount of $280,000,000, and yet—and certainly, under the balance sheet that they submitted, they presently hold about $40,000,000 worth of assets, so it really isn't even feasible.

It isn't the type of case for another reason. In most receivership cases, you have party A and party B who are fighting over certain assets. A receiver is put in by the court to protect the assets while it is determined what the rights of the two parties are.

In this case there isn't any adversary proceeding between party A and party B. The law is very clear.

The Court: Mr. Browne says that the only people interested are six people who filed this action.

Mr. Tapper: That is a red herring, Your Honor.

Under the Title XI, the quote errando provisions of the Administrative Code, it is provided, for example, that the Attorney General controls the litigation at all times, and that at any time the Attorney General may step in and take over the litigation.

Mr. Browne is attempting to argue to the court that the real people in interest here are six individuals when, in

fact, the relator status to be granted under the [9] Administrative Code clearly is for the benefit of the public, and we will remain in complete control of the litigation.

So, I could, at this very moment, for example, dismiss the six relators. I could take the case away from them. I could dismiss the case. This is all provided for under the Administrative Code. That's the red herring.

The Court: Aren't the People a party to these proceedings, or are they not?

Mr. Tapper: Yes, they are, Your Honor. They were granted relator status for the purpose of carrying the laboring arm and bringing this matter to the court's attention, and I think the court will concede that Mr. Chodos has done an admirable job in doing this.

The Court: Is the State of California a party?

Mr. Tapper: Yes, Your Honor.

Mr. Harney: We disagree.

Mr. Tapper: The State is automatically a party to these proceedings. I don't have the Administrative Code with me, but I can show it to the court.

Mr. Harney: May I be heard on this?

The Court: Just a moment.

Mr. Tapper: Your Honor, if this were not true—let me demonstrate that if this were not true, it would mean that any memorial trust case—and Brown vs. National Memorial Home was a charitable trust case—one could look at the fact that the People of the State of California were a party, take the individuals, dismiss the individuals and leave no action whatsoever pending.

[10] The suit clearly is one to enforce public rights, and attacking the Relators is a red herring, Your Honor.

The Court: All right. Mr. Browne and Mr. Harney and

Mr. Horvitz, you all represent the same people, but you can take your choice. Who is going to speak for you?

Mr. Browne: Can we divide up the matter?

The Court: No. I just want one counsel.

Mr. Harney: I just wanted to make one point.

The Court: Mr. Harney, I want one party to speak. If you want to consult about it, you may, but I think it's unnecessary to have three counsel here to argue the matter.

Mr. Harney: It was just frustration, Your Honor.

The Court: Pardon?

Mr. Harney: It was just frustration on my part.

The Court: All right. I'll give Mr. Harney five minutes, and then I'll expect Mr. Browne to carry the ball.

Mr. Harney: It won't take that long.

Mr. Tapper: The one thing I want Mr. Harney to respond to in answer to your question, not only is the Receiver to keep the records, the Receiver is going to furnish an accounting which clearly isn't going to be accomplished without that Receiver. If an appeal is pending for two years and an accounting doesn't even begin for two years, the People have lost that also.

Mr. Harney: We have strong law that the purpose of a receiver is only to protect and secure assets, not to conduct an investigation.

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[13] * * *

Mr. Tapper: I might add, Your Honor, there is language in the Brown case to the effect that the Attorney General may grant relators' status, and he can do so informally. He can do so in any way that he chooses to do so. That was one of the major holdings of the Brown case, because it was contended that the plaintiffs had no standing.

In this case, the Attorney General came to court and said that there were public rights that should be adjudicated, and wanted to have the court determine those rights. In response to that—

Mr. Browne: Your Honor—

Mr. Tapper: —the court in Brown indicated that the Attorney General may make his own rules, I think was the language of the court.

Mr. Brown can't argue now that the Attorney General doesn't have the ability to make his own rules and use the Brown case which clearly states exactly to the contrary.

And I can represent to the court that the rules that we have established, the Attorney—there is a specific provision that the Attorney General maintains control of the litigation at all times. He may desist the litigation. He may direct that an appeal not be taken, or that an appeal be taken. He may step in and replace the relators, and I think that the [14] provision that he may step in and replace the relators in dispositive of the point that is now being raised, particularly in light of the language in Brown that the Attorney General may make his own rules.

Mr. Browne: Your Honor, the question of control is not an issue. We are not complaining that the Attorney General does not control this case. It does as to the six people.

They selected this particular remedy. They selected this remedy. § 83 of the Code of Civil Procedure says it can be brought by the Attorney General on behalf of the State of California or on the complaint of a private party. They didn't take the former. They took the latter.

Now, if they want to join 100,000 members, so be it. We'll post bonds dealing with those 100,000 members, and may have selected six, and each of these people have a relationship to Garner Ted Armstrong who was disfellowshipped last year.

This is a struggle of dissident church members. Only six of them. The other 99,994 have not been heard from, and at least 5,000 of them are out there saying they don't agree with these dissidents, and another 10,000 letters saying they don't agree.

I don't think this court can speculate what their wishes are.

The Court: Their wishes are immaterial, counsel.

Mr. Browne: And it is only to this extent. These six members said, "We are unhappy about the tithes they put in because we don't like the way they spent our money", so our position is quite simple, Your Honor.

Excerpts From Hearing On Motion to Disqualify Attorney Chodos

REPORTER'S TRANSCRIPT OF PROCEEDINGS
February 16, 1979

[10] • • •

Mr. Browne: • • •

Now, they use the word "supervised." The code section says, "The Attorney General may examine the books and records of a charitable non-profit corporation," not supervise.

Assuming arguendo that section is constitutionally valid when applied to a church, and we dispute that it is, it cannot be subject to doubt that there are certain documents like ecclesiastical documents, membership lists, amounts that the members tithe, penitent and clergy communications that are totally privileged, and anything that bears upon those items may be at least partially privileged. So the argument that any document owned by the Church is subject to scrutiny and examination, is automatically not

In conclusion, Your Honor, we are asking the court, with due respect, to look at this and be a bit courageous.

It's difficult for a court to say to two lawyers that they haven't acted properly and that they are disqualified. But, Your Honor, this case has received an enormous amount of publicity, and 99 people out of a hundred who have never walked into that court and come up to me and accuse my clients of heinous crimes, all of which have come through the media. And I believe, Your Honor, the question of whether this case can be fairly tried is substantially in doubt as a result of that.

I call upon this court's equitable powers to be asserted so that our clients need not suffer that abuse in [11] the future. There is simply no need for it.

Appendix Z—Excerpts From Hearing on Motion to Disqualify Attorney Chodos

The Court: Thank you, Mr. Browne.

Mr. Horvitz?

Mr. Horvitz: I'm co-counsel with Mr. Browne, and just hear to listen, Your Honor.

The Court: Mr. Harney?

Mr. Harney: I think Mr. Browne discovered it. Perhaps I could say something after Mr. Chodos.

The Court: Mr. Chodos?

Mr. Chodos: Does Your Honor need to hear from me?

The Court: I always think it's nice for both sides to speak up if you want to.

Mr. Chodos: Well, the difficulty I have, Your Honor, is that Mr. Browne has given you a long recitation, most of which is false.

I didn't come here with all the transcripts of the proceedings before Judge Title, so I am not able to exhibit to you what Judge Title has told him on previous occasions and what orders he has made concerning the ex parte application and order to show cause re gag order, but I will produce them if it becomes necessary.

I am also not in a position to present, Your Honor, or to point, Your Honor, right this minute to the places in the file which contradict Mr. Browne's assertions about Garner Ted Armstrong and the internal factional struggle and how Mr. Tapper and I and Mr. Deukmejian and Mr. Younger are all unwitting pawns of Garner Ted Armstrong.

I can present to the court, however, that I [12] had no contact whatsoever of any kind, direct or indirect, with Garner Ted Armstrong until a few days ago in connection with the scheduling by Mr. Browne of his deposition in this lawsuit, and a subsequent conversation on the same

Appendix Z—Excerpts From Hearing on Motion to Disqualify Attorney Chodos

subject. That was the first and only conversations I have had with him.

Now, the fact is, Your Honor, the plaintiff in this lawsuit is the People of the State of California. The plaintiffs are not the six relators. The six relators were granted leave to sue through me in the name of and on behalf of the People of the State of California, and that is why the Attorney General has signed this pleading along with us.

The relators in this action have no claims. They have no interests to protect. They have no remedies that they can seek. They have no office to perform in this lawsuit. Having related their allegations of improper management of charitable trust funds, they are functus officio; and they have nothing more to do with this case, except that their names appear on the pleadings.

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Excerpts From Further Hearing

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday, February 21, 1979

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[9] • • •

Mr. Tapper: I'm saying several things.

First, we were not able to come up with the manpower to carry this type of action. I foresaw that then, and I think it's clear from what the court is saying that there needs to be a great deal of resources to meet the obstruction that is being placed in the way of, quote, audit and investigation in this case.

The Court: Where does the law place that burden, Mr. Tapper?

Mr. Tapper: The burden is, your Honor, on the nonprofit organization.

The Court: How do you conclude that?

Mr. Tapper: If, for example—Let's look by an analogy to a private trust. If a ward, a minor, were to come before the court and ask for an accounting from a private trustee, the court would, of course, order an audit.

It would order the accounting, and the burden would not be on the minor to come up with the resources to carry the accounting. The burden is on the trustee.

In this case, we have a nonprofit organization that is the trustee, and it has the obligation to furnish the accounting.

The Court: Now, hold on. Would you repeat that?

Mr. Tapper: There are three organizations, all of which hold their assets in trust for the public. The law is clear that a trustee has an obligation to account to the [10] beneficiary.

I represent the beneficiary, the public. The question, I think, your Honor, is asking why shouldn't the public undertake the obligation of dragging out the accounting, making the accounting, investigating to see that the accounting is a clean one, and pay for it out of public coffers.

I don't think that that is consistent with the cases, your Honor.

The Court: Well, give me a case which says it's not the obligation of the Attorney General to carry the burden in this litigation.

Mr. Tapper: Well, your Honor, Holt vs. College of Osteopathic Physicians & Surgeons points out, and if I may read from this, and this was in answer to the point that the Attorney General is the only one that should be doing this job.

> "Part of the problem of enforcement is to bring to light conduct detrimental to a charitable trust so that remedial action may be taken. The Attorney General may not be in a position to become aware of wrongful conduct or to be sufficiently familiar with the situation to appreciate its impact, and the various responsibilities of his office may also tend to make it burdensome for him to institute legal actions except in situations of serious public detriment."

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[12] • • •

Mr. Tapper: Private trusts.

Now, the question is why should the case be different in a case of public trust?

The Court: Very simple to me, Mr. Tapper. The State

has undertaken the obligation of proceeding with this lawsuit.

It is true that the defendant Church cannot refuse to disclose whatever information is needed. I think that is absolutely clear.

If they attempt to hide any information, refuse to disclose it, that's one thing.

On the other hand, the question really is, are you telling me the Church itself has to conduct its own audit and then present it? They've already conducted audits. They claim their books and records are in proper condition.

Now, the question really is at this stage: Who should assume that burden of proving to the contrary?

Mr. Tapper: Your Honor, I know what they claim, and your Honor knows who the accounting firm is. Your Honor has heard the testimony as to the independence of the accounting firm and how Mr. Kessler purchased the firm from Mr. Rader.

I think that it's clear that there has not been a truly independent audit done in this case. The fact remains, your Honor, that there is a question—it's a question of where the burden lies as to protecting the public interest.

Now, we have done what we can do by bringing it to the court, and if the court believed that there was [13] good reason to appoint a receiver in this case, that has been taken the Court of Appeals and it's been sustained. It may be on calendar for today in the Supreme Court. I don't know, but I would hope that it will also be sustained in the Supreme Court.

The question no longer, your Honor, is whether the receiver was properly appointed or whether this court's order of January 19 was an appropriate order. All the

arguments that Mr. Browne is making today have been made to the appellate courts that it is the burden of the Attorney General to investigate. It's the burden of the Attorney General to conduct the audit.

I think those arguments have been rejected.

The Court: We're not discussing today, Mr. Tapper—unless I misunderstand you—whether or not the receiver was properly appointed. That is not the issue.

I'm satisfied that the receiver was properly appointed in this case initially. There was enough to raise an eyebrow of anyone who had a reasonable mind to question whether or not there had not been some malfeasance, some conflict of interests and financial wrongdoing here. That's not the issue we're discussing.

We are now some weeks into the Receivership, and it developed, as far as I can see, looking at this very objectively, is that all that is being accomplished is the conduct of the audit.

Now, certainly there should be an audit. • • •

[20] • • •

The beneficiary of that lawsuit will be the Church. If Mr. Rader owes a million dollars of illegal profit on the house, the Church is going to get it. Why shouldn't the Church pay the cost of pursuing it? Why should the Attorney General pay it?

I point out to your Honor that 9505 does not suggest that the Attorney General must pursue the search charge claim. He sometimes does.

The Court: It says he is to correct any malfeasance that he finds.

Mr. Chodos: No. He is to bring an action.

The Court: To correct. What does that mean?

Mr. Chodos: That means that he is supposed to tell the court about it, and the court is to take those measures which are most calculated to correct the improprieties of the trust.

The Court: Come on, Mr. Chodos. It's not the court that is an investigating body. That may be true someplace else or under civil law in European countries. That is not true here.

The court is not the investigator.

Mr. Chodos: The court is not the investigator. What we are saying is that the Church—if the Church had a board of directors, they would be liable for failing [21] to prevent dissipation. They would be liable for failing to prevent malfeasance or to pursue it.

But this corporation doesn't have a board of directors. It doesn't have a set of trustees who can be relied on to enforce the trust. That's why we brought this case to the courts. The court—the reserve function and office of the court is to see to it that charitable trust funds are properly managed.

Now, you come to the court as the Attorney General did and said, "Look, I've looked into this and I'm astonished to see that there is no trustee here. Mr. Rader is the trustee, and also the alleged wrongdoer."

We're asking the court, therefore, to appoint—the Receiver in this case is a substitute, interim trustee, and he's not just a holding device like a writ of attachment. He has those affirmative duties which are duties of a trustee, and the trustee cannot simply sit back and wait for conflicting claimants to come in and argue what happens to the money.

The trustee has to see to it that claims are pursued.

Let me explain, your Honor, my point in the matter.

The idea that we should attempt to conduct this audit with Mr. Rader in control and this army of lawyers that he has here—now a fourth firm, I understand—that we should attempt to pursue discovery proceedings by subpoenas and motions and endless litigation over every document, [22] and that we have the burden to prove on behalf of the public that there has been misconduct, and that we have the burden to pursue it and get it back for the Church.

I have to tell you, your Honor, that is not a burden that we ever undertook in filing this lawsuit or that I think that we can carry.

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[23] The Court: Now, the other point is that the defendants' response, which is fine, but why should the Church have to bear that burden? Why shouldn't the Attorney General, since he is obligated to bring the lawsuit—at least he saw fit to bring the lawsuit—why shouldn't he undertake to conduct that audit?

If that is the fact, then there is no reason why the Attorney General should not assume that, particularly in view of the fact—and this is a point which, to me, is very important—the Church, per se, has not been accused of any wrongdoing. It is individual members. It's Mr. Rader and the others, possibly, who have been accused of taking money that didn't belong to them, of breach of fiduciary duty and the like.

Whether or not, in the final analysis, it is determined in this matter that Mr. Rader and others have or have not acted wrongly, in the final analysis the Church will still be the innocent party in the case; isn't that true?

Mr. Chodos: Not exactly, your Honor.

The Court: Why isn't it?

Mr. Chodos: I will explain why.

In a sense it is, but I think in a more important, fundamental sense, it is not true.

Let me explain that one of the people who came to me, Mr. Chapman, who was a declarant in the original papers, has been a minister in this Church, or was a minister before he was disfellowshipped, for many years.

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Mr. Chodos:

[128] • • •

However, the issue, Your Honor, before you is what accounting is satisfactory to you.

If you're going to be satisfied with an accounting done by Peat, Marwick where Mr. Bodo and Mr. Helge screen every document and decide for themselves in advance whether it is ecclesiastic, and leave it up to the accountants to come to court every Monday and Thursday asking for a ruling—

The Court: What difference does it make whether the receiver comes running to court or the accountant comes running to court?

Mr. Chodos: Because the fact is, 99 percent of the records that are supposed to be ecclesiastical are essentially the heart of the wrong-doing.

The Court: I agree with you.

Mr. Chodos: Now, what I'm saying is Your Honor has to decide what part of this charitable trust has been improperly managed, and if you are content with not putting a receiver in control of the records so that the auditors can go to the records immediately without giving them

a chance to change things or hide things or alter things, but I have to explain to Your Honor, in fairness and candor to the court, that neither I nor the Attorney General's Office is going to become involved in litigating the issues of that accounting. We are not going to do it.

The Court: Mr. Chodos, I have to interrupt.

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The Court:

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Now, that still takes us to the point that the receiver ought to be continued.

And I say what does the evidence show? There has been some showing, and I concede this. There has been some showing that there really is a lack of bona fide cooperation on the part of the church people.

I think they have actually started out on a tact of attempting to frustrate the receiver and the audit. No question in my mind about that from everything I have seen and heard.

On the other hand, I don't think there is enough there for me to now say that keeping the receiver in will accomplish anything, because I don't see that it will. The purpose of the receiver really is a two-fold purpose at this point.

There is a primary purpose which you outlined to me, Mr. Chodos. That is to say, of securing the audit.

Now, the audit can go forward under the auspices of the Attorney General. The second purpose was to protect the assets. Well, the real estate out in Pasadena is not going to get up and walk away. There are records out there.

If there is some demonstration that those [136] records have been fooled around with, I haven't heard it yet. There has been some suggestion and some vague evidence that I didn't put too much credence on at the time of the hearing that something had been shredded, but what had been shredded turned out to be really not of much consequence.

Now, the fact that I should determine is that the receiver should vacate the premises and let's see if we can get an audit. I have had all kinds of assurances from counsel that they're going to permit that audit to go forward.

Now, maybe they won't. Maybe they're not acting in good faith.

I'm going to make an assumption that they mean what they say, and if it develops that the auditors have any difficulty in that regard, I'm going to make it absolutely clear that the first thing I would do would be to entertain an order to show cause regarding contempt, and I would entertain a motion to place a receiver back in, and I won't hesitate to do it.

And I'm not talking about a receiver who will be supervising, because the next time a receiver goes in, he will be taking full charge. It will be a full-blown receivership with all of the powers of control, operation and the works.

There will be no supervision.

As I say, I want to make that very, very clear, because the court will not permit them to frustrate the orders of the court.

Now, it seems to me that at the present time, the [137] church ought to be given, say, one, and I should possibly say one final opportunity to demonstrate their good faith and show us they will respond directly to the auditors,

and furnish the auditors everything they need, absolutely in good faith and expeditiously.

And, incidentally, so it will not go without being mentioned, I do not accept, Mr. Browne, this argument about ecclesiastical interests prevailing when you are talking about the financial records of this church or any of these corporations.

If this receivership is vacated, and I have one or two petitions come into this court with arguments made that the financial records involve ecclesiastical matters, let me assure you that I will consider that evidence of bad faith, and it will be very strong evidence to me that the receivership ought to be back in there, because I just don't think ecclesiastical matters have anything to do with the financial aspects of the operation out there.

I can see a clear delineation between what is ecclesiastical and what is not, but it has no reference whatsoever to financial matters. So, I want that to be very, very clear.

It seems to me that under the circumstances, what the court ought to do, and I am going to order now, firstly, that the receivership is going to be terminated, at least temporarily.

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Excerpts From Further Hearing

REPORTER'S TRANSCRIPT

Thursday, March 1, 1979

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[15] Mr. Browne: I think we have to go back to what they have alleged in their complaint.

They alleged in the complaint that Mr. Armstrong and Mr. Rader were siphoning off "Millions of dollars," misappropriating millions of dollars. Those are the only two defendants personally to which this Attorney General has a right to examine. They are limited by the scope of their complaint.

They can't go on a fishing expedition into all sorts of collateral issues and investigate ministers' salaries; how much it cost to produce Quest Magazine; how much they spend on Ambassador College; how much they give to welfare recipients. That is well beyond the scope of their complaint.

And, Your Honor, they are asking to get into every internal financial document that we have. I want to point out that this is totally abhorrent to what 9505 contemplates, which is an examination of financial affairs, and in the institution of a lawsuit based upon wrong-doing, they are limited to those allegations. When you have an I.R.S. investigation—

The Court: Let's not get into that. It serves no purpose.

Mr. Browne: It has never ever been the right of any governmental agency to go into a corporate entity of any kind and simply say we want everything in your computer data base.

The Court: Do you want to be heard, Mr. Chodos?

[16] Mr. Chodos: Yes, Your Honor.

Mr. Browne: It goes back 20 years, Your Honor.

Mr. Chodos: These corporations have never rendered an accounting. They have done everything through the accounting firm of Mr. Rader and his partners and former partners.

Now, I don't know whether Mr. Armstrong and Mr. Rader have been siphoning one million or ten million or forty million. I know that $70 million a year, by their own admission, runs in and out of this company, and takes with it tax exemptions of 20, 30, 40 percent of this every year.

Now, the Attorney General has a right, as I understand the law, and the People have a right to a full and complete accounting of every last penny.

The Court: I don't think I have any question about that.

Mr. Chodos: The point is, Your Honor, what they have told us and what they are trying to do is keep the expense down.

Mr. Bicket came to your court and he testified that most —except for the executive payroll which is the sensitive stuff—most of the accounts are on the computer. They can be called for instantaneously by electronic devices.

These are not mysterious computers. They are current in the business world.

The cost of a computer terminal is negligible. Rafael Chodos does happen to be an expert in that field, and he can explain it. It is a means of simply filing and expediting this audit.

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[30] • • •

The Court: Haven't we been through this? I have indicated they have to have—they are entitled to a full and complete audit.

I am not going to make any effort here to try to delineate what they may look at and what they can't. We went

through that about five or ten minutes ago. I see no way to handle that. I rely on the Attorney General's good faith and their unwillingness to spend any more than is necessary. I am sure they don't desire to spend any more money than necessary, and I am comfortable—

Mr. Browne: Does that mean, in effect, that they are not limited to the pleadings in terms of the kinds of financial discovery that they are entitled to?

The Court: We have been through that. They are entitled to a full and complete examination, as far as I am concerned.

Mr. Horvitz: Your Honor—

Mr. Browne: Would the court consider any evidentiary presentation before the court makes an order as to the cost of any of these matters and the effect of these matters?

The Court: I will not. I am not going into any more evidence in this matter. It will serve absolutely no purpose, Mr. Browne.

As far as I am concerned, the Attorney General is entitled to a full and complete audit, period.

[31] Now, I have to rely, again—I repeat myself—I rely upon their good judgment and discretion as to what kind of audit will be made.

Let's move on, please.

This business of staff support, subparagraph D on page 7, line 9.

Mr. Chodos: May I explain that?

The Court: It is completely unreasonable to ask the individual defendants to be available, and I will not.

Mr. Chodos: Let me explain the point I am interested in, Your Honor. If we make a request—

The Court: Excuse me. Maybe you don't have to argue this. Let me tell you what I have in mind, and then I will hear from you and Mr. Browne if he wants to be heard.

I think there have to be names of particular individuals furnished to the Attorney General, who will be in the position and authority and knowledge and the knowhow to respond to requests for information and documents, and I think the names of those individuals have to be furnished to the Attorney General. I think they have to be people who are on the premises generally during the working hours, and who are acquainted with the ramifications of the records, so they can operate intelligently.

The only question is now should they be made available. It seems to me they have to be available during the working day, probably certain working hours.

I don't see any other way to handle it.

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[56] • • •

Mr. Morgan: Do I understand Your Honor says you will not stay this order until after the receiver has been discharged? That is all I asked for.

The Court: I am not going to stay the order, period.

It will be signed when it is prepared, and that is the way it will have to go, gentlemen.

I will not delay this matter any further, and I want to move it along for the benefit of everybody.

What else do you want to raise, Mr. Browne?

Mr. Browne: All right. With regard to the other matters, Your Honor, on page 6 of the combined order, Your Honor, we have asked for, in Paragraph 3, that statutorily privileged material be protected under Evidence Code Section 900.

This would involve information, for example, of attorney-client—

The Court: I won't rule in advance on any of those matters, Mr. Browne.

Mr. Browne: We are asking that the Attorney General not receive that information.

The Court: I am not going to rule in advance on what is privileged and what isn't.

If there is something privileged, and you have a problem, you can go to—

Mr. Browne: How do we unring the bell?

The Court: I am not going to attempt to do that, Mr. Browne. You have your remedies, and I am not going to . . .

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[64] • • •

Mr. Browne:

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. . . [W]hen the court makes an order which requires the divulgence of material, which they waive a privilege or a constitutional right, that there really is not adequate remedy, no adequate remedy at all other than not to divulge that information, because the right of the people is determined to be inadequate.

It says, for example, in United States vs. Dickinson, from the United States Court of Appeal, that a witness cannot be punished for contempt of court for refusing a court order to testify, this is a waiver of the Fifth Amendment, if underlying order violates the Fifth, Fourth and perhaps the First Amendment rights.

The rationale of these cases is that once the witness has complied with the order to testify, he cannot thereafter retrieve the information involuntarily revealed, even if it subsequently develops that compelling the testimony violated constitutional rights.

The Court: Mr. Browne, that is a complete different problem, just completely inapplicable here.

Obviously, if there is a witness on the stand and the privilege is asserted, the court can examine what the matter is asserted to be privileged and make rulings.

I am not going to make rulings in advance. There is no possibility of that. You have already raised it, and I ruled on it.

Anything else?

Mr. Browne: The only point I raise, Your Honor, if they have a direct—

[65] The Court: I understand your point, Mr. Browne, I really do. You made it a couple of times. I don't agree with it.

Now, I made my ruling. It will stand.

Mr. Horvitz: May I ask a question. If they have a direct pipeline into the computer, and there is privileged information on the computer, how are we to protect that privilege? Once they are piped in, the privilege is gone, like that. We can't come back to—

The Court: How do you suggest I protect it?

Mr. Horvitz: We are asking there be something in the order that privileged communications—attorney-client privilege be designated in the order as privileged and put the burden—

The Court: I don't know what that would be, and I won't attempt to rule in advance.

Mr. Horvitz: There is no way we can protect those documents.

The Court: There is no way I can rule in advance either.

Mr. Horvitz: Then we have lost the privilege.

The Court: I don't think you have. That is something I can't do anything about.

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Excerpts From Hearing Reinstating Receivership

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Monday, March 12, 1979

[40] • • •

The Court: Go ahead.

Mr. Horvitz: All right. If I may.

The order we proposed contained a provision that any audit would be conducted with due deferences to the religious practices and observances of the members. We didn't get that. We asked that it be conducted with due deference to the priest-penitant privilege and that document should not be disclosed without the consent of the party in whose favor the privilege runs. We didn't get that.

The same for the attorney-client privilege. Your Honor did insert a provision that church membership lists should not be viewed by the attorney general, but once they were into the computer, they had those lists. So if they didn't look, it was strictly a matter of grace.

And there is a great deal of authority that constitutional rights cannot be given as a matter of grace by a public agency.

We asked for those things; we didn't get them.

Now, following the signing of your order on the 2nd of March, there were several telephone conversations between Mr. Browne and Deputy Attorney General Brainard, and I wish [41] Your Honor would hear testimony from them.

The Court: I am not going to take any testimony on that. It's really immaterial. This whole line of argument you are now making is completely immaterial to the issues before the court.

Mr. Horvitz: Well, may I just add that offers were made to furnish information in complete good faith but consistent with the pursuit of our right to appeal.

I will drop it at that, Your Honor, but I want the court to know that, and I want it to be of record.

Thank you.

The Court: Do you want to be heard, Mr. Tapper or Mr. Chodos?

Mr. Chodos: Well, Your Honor, let me just suggest one thing—and, again, it's up to Your Honor to place the construction on it that you think is most appropriate.

Obviously everybody in this case understood that if the court issued a mandatory injunction, it could be stayed by appeal; something that didn't even have to be said.

The sandbag is, lift the receivership and give us an order and we will comply with it. Why they don't comply with it, whether it's because of an appeal or whatever, is irrelevant. That's the point that I'd like—seems the most evident to me.

The Court: Did you want to be heard?

Ms. Peters: With the court's permission, Your Honor.

The Court: Yes, ma'am.

Ms. Peters: Again on behalf of Peat, Marwick, and [42] Mitchell and Company, it's my understanding as a result of these proceedings today that we are under an injunction of two orders. But first there was the previous indication by this court ordering us to make our work papers and other materials available to the attorney general's office for review.

The Court: Correct.

Ms. Peters: Now today in lieu of testimony and producing documents, we have been ordered to make available our documents to the defendants for review, and I assume that that would hold off or stay—

The Court: You will hold on to them until this Friday, through Friday, then you may comply with the trial order.

Ms Peters: Through Friday, the 16th. Thank you.

The Court: Let me back up here a moment, gentlemen. At the last hearing the defendants moved to dissolve the receivership, contending, as they had several times in the past, not only to this court but to others, that the People would be adequately protected by an injunctive order; that the receiver need not be present or be required to—required to have a receiver to accomplish an audit. And that if the receivership were dissolved, the defendants would fully cooperate with the securing of an audit by the People.

The court accepted these representations at face value and said it would assume the defendants were acting in good faith, and entered the order of—I think it was March the 2nd—dissolving the receivership, authorizing an audit by the plaintiff and also made certain additional orders which essentially required the cooperation of the defendants in [43] effecting the audit.

Almost immediately after the protestations of good faith and cooperation, the defendants filed their appeal to my order of March the 2nd, which, of course, stayed the mandatory portions of the court's order, but did not stay the prohibitory portions.

Now, unfortunately, without the mandatory portions of the court order, it would be very difficult, if not impossible, for the auditors of the attorney general to proceed with the audit.

I want to make it crystal clear at the outset that the defendants have an absolute right to take their appeal from that order, even though its practical effect might be to frustrate the court's order permitting the audit, and even though it is obviously contrary to the representations made to this court by defendants' counsel to the effect that the

defendants fully intended to cooperate with the conduct of that audit.

Now, the court respects the absolute right of the defendants to take this appeal, and it does not find—it does not find that taking the appeal, in and of itself, is per se violative of any representations made to the court by the defendants, or violative of any order made by the court. Nevertheless, the taking of that appeal after the removal of the receiver leaves the matter in this posture: The receiver is no longer present, or acting to protect either the assets or the integrity of the records, or to prevent the removal, destruction, or whatever, of those records or [44] any part thereof.

Secondly, the auditors of the attorney general are not in a position, from a practical standpoint, to go forward with that audit, because they are not in possession of the books and records, including any computer records; nor can they practically get access to them because of the stay of the order.

Now, the court has no way of knowing whether or not there will be any effort on the part of the defense to do anything to those records. But there have been allegations to that effect, and it's obvious to the court that the attorney general auditors acting—in conducting an audit, even assuming that they could conduct an audit at this point, cannot police or safeguard the integrity of those records.

Now, again I want to point out that I don't know what has occurred regarding the records up to this point, or will occur in the future. But, very candidly, the incredible resistance of the defendants to this audit after all of the assurances to the court that they would comply, have to raise a reasonable question in one's mind as to why they are resisting the audit to such a degree.

Now, it has to make a reasonable mind suspicious that perhaps someone out there doesn't want that audit, for whatever the reason.

And I certainly hope that when the audit is completed, as it will be, that everything will be found to be in order. But I don't know.

[45] There is one thing that is absolutely certain, that the audit must go forward and will go forward, and the integrity of those assets and the records are going to have to be maintained.

Now, the court feels that it is absolutely imperative that the status quo regarding the assets and records must be maintained at least pending the determination of that appeal, which has been taken by the defendants from the order. This cannot be done without either the receiver remaining in possession and control or the auditors proceeding with the audit with full access to all the books, records, computers and the like.

Pending the appeal there will be no receiver, nor any auditors, to monitor the integrity of those records unless the court acts at this time.

Now, the court—

Mr. Browne: Your Honor, could I just correct one point made on that?

The Court: No, sir, you may not. I'll let you speak when I have finished. I've heard from you, Mr. Browne. Let me complete my statement.

The court does really regret sincerely the necessity of me placing a receiver in this matter, but reminds counsel that I clearly and concisely and unequivocally told counsel that if this order was not complied with so we could protect the integrity of those records and assets, that the

court did reserve jurisdiction to place that receiver back in.

It is very apparent to the court that it has [46] again become necessary to place a receiver into the premises in order to maintain the status quo and the integrity of the records.

Now, the court therefore intends to replace a receiver in the premises to preserve the status quo of the records and the assets pending a determination of this matter.

The receiver is to continue in the performance of his duties until such time as the court determines that the receiver will no longer serve a useful purpose.

At such time as that appeal has been concluded, the court will again reconsider the matter. I don't know what the order at that time will be, but I will have to look at it at that time, seeing how the situation appears to the court.

Now, the court, as I say, intends to reappoint a receiver. The court will appoint, unless the parties can agree upon someone else—and let me just tell you now that I had several names of those who were prospective receivers in this matter. They were Mr. David L. Ray, Gilbert Robinson, Lowell H. Dugan, and Edward R. Borchard, Jr., Edward J. Costello, Jr., and Ronald M. Sirhigian.

Now, I am perfectly willing to see if the parties can agree upon a receiver. If they could mutually agree on any of those names or anyone else, I would have no objection. In the absence of any such agreement, I intend to appoint Mr. David L. Ray as the receiver in this matter.

Mr. Ray, I will tell you, I do not know personally, but he is an attorney; he is a CPA; he's had some 15 years

[47] or more as a receiver in many important matters in this county and elsewhere. And, unless there is an agreement mutually as to someone else, I intend to appoint him.

Mr. Browne: Your Honor, in light of the court's discussion here, I am wondering if we could have a few minutes before we proceed, because there are a few things that the court is not aware of, and we would like to make some comments to the court's suggested—

The Court: All right. We'll start at 3 o'clock.

Mr. Browne: Thank you.

(Recess.)

The Court: All right. Mr. Browne, you want to be heard?

Mr. Horowitz: May I make a preliminary statement, Your Honor?

The Court: Yes. Go ahead.

Mr. Horowitz: Thank you.

I would like to make some comments and state some objections concerning Your Honor's order to reinstate the receiver.

First of all, I would like to point out that in the order of March 2nd originally submitted to you, prepared by Mr. Chodos, you reserved—as requested, you were to reserve jurisdiction to reimpose the receiver with or without advance notice to any party. You struck the words "with or without advance notice to any party." But we have had no advance notice of Your Honor's intention to reinstate the receiver today.

So, first of all, I believe it conflicts with [48] the intent of Your Honor's own order of March 2nd.

Appendix Z—Excerpts From Hearing Reinstating Receivership

More fundamentally, we submit that there is a fundamental denial of due process. The imposition of a receiver is a very severe penalty, as you know from the previous hearings. We have had no advance notice; we have had no opportunity to present evidence; and when I wanted to tell you some statements before as to conversations which occurred you wouldn't even allow me to make them in the form of statements, although—we would like to have Mr. Browne make them in the form of an offer of proof so they will be in the record.

And we are herewith requesting before any receiver be reinstated, that we request a full hearing.

I would like to add another comment by way of objection to Your Honor's ruling.

You say because we have resisted the appointment of the receiver and a total audit and having the attorney general plug in and rifle through records for thirty years, in your mind it evidently raises a presumption of some kind of guilt. I believe that's a fair paraphrasing of Your Honor's statement, which is completely contrary to every doctrine I have ever heard about the law.

And Your Honor knows full well that we have appealed that order, we are presently in the Supreme Court on the basic fundamental constitutional question of whether the state has any right to engage in this audit at all. And it seems to me with that matter presently pending to say that this raises a presumption of guilt in your mind sufficient to reimpose a receiver is simply unwarranted.

[49] Is it not at least equally possible that we are trying to preserve constitutional rights here, the right to protect church documents, private documents, privileged documents. That is the reason that we have been resisting this.

Appendix Z—Excerpts From Hearing Reinstating Receivership

Next, I would like to point out that the prohibitory injunction which remains in effect pending the appeal prohibits the destruction of documents. And you have heard enough evidence, it seems to me, over the past 12 weeks by now to have some appreciation of the fact that the destruction of document argument is a red herring.

You have heard all of the evidence that can be brought out about the shredding of documents and the destruction of documents, and you yourself said there was simply no basis. You heard of a few inconsequential documents that had been thrown away and that was all.

It seems to me if this evidence indicates anything, it indicates that this church maintains detailed, careful records and preserves them assiduously. There's been no destruction of documents. There's going to be none.

And I submit that the prohibitory portions of the injunction are more than adequate to protect any rights involved.

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[62] • • •

Mr. Horvitz:

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. . . They ran up, I think, $55,000 very quickly, but there have not been guards there for some time now. There's not been a receiver there, I gather, for some period of time now, and there's been no destruction or loss of documents. There's really been no showing of any kind of destruction, of the taking of documents, of anything that isn't going to be there after the appeal has been concluded. There's simply been no showing in that regard. And when Your Honor simply reads in to the fact that resistance to protect constitutional rights and improper

motive and from that infers that documents are being destroyed and taken when the only evidence you have heard has been to the contrary, it seems to me there is no showing whatever to warrant the imposition of a receiver.

[62A] The Court: The prior order regarding the dissoluation of the receiver is hereby vacated. It is to be superseded by this order. David Ray is hereby appointed the receiver pendente lite over all the financial and business affairs of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc.

Incidentally, I might tell you that I am looking at the prior order made in this matter, the original order, and I am paraphrasing some of it.

Those corporations will be hereinafter referred to collectively as "the church," except where the context otherwise requires. The receiver is to carry out the duties which are specified in this order: Bond is fixed in the sum of $10,000 for the receiver.

The receiver is to take possession and control of the church, including all of its assetε, both real and personal, tangible and intangible, of every kind and description, except as is otherwise provided by the court at this time.

In spite of this order of possession, it is further ordered that all of the authorized employees of the church shall be permitted to continue to carry out their duties and to continue all activities and operations of the church. The receiver nevertheless has the right and power to supervise and monitor all of the business and financial operations and activities of the church, but he shall not interfere unless [62B] he determines, in the sound exercise of his sole

discretion that such interference is necessary to avoid damage or loss to the church of any kind.

If he does so determine, then he shall have the right to take over management and control of the church to whatever extent that he, in the sound exercise of his sole discretion deems necessary.

Th receiver is empowered to hire and employ and retain lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help, and employees of all sorts to assist him in the discharge of his duties pursuant to this order. He is authorized to pay reasonable compensation to all of his assistants out of the funds and assets of the church, subject to the supervision of this court as will be provided herein.

The receiver is to take immediate possession of all books and records of the church, no matter where or in whose possession said records may be found. These records are to include, without limitation, journals, ledgers, bank statements, vouchers, invoices, logs, memoranda, and computer-readable data.

These books and records shall be made available for the use of the employees of the church in the carrying out of all their duties. They shall also be made available to the representatives of the plaintiffs in this action for use in preparing for the trial in this action.

The receiver is to supervise and control all the business and financial operations of the church, including [62C] both ordinary day-to-day operations, and extraordinary operations. While it is ordered that the receiver shall not interfere with the normal business and financial operations of the church unless he deems it, in the sound exercise of his sole discretion, to be necessary so to interfere. To the

extent he determines it necessary, the receiver has the right to take over any portion of the operation of the business and financial affairs of the church that he deems necessary in order to protect the church and its assets or to carry out his duties as receiver.

Except as otherwise provided herein with respect to Messrs. Armstrong, Herbert W. Armstrong and Stanley Rader, the receiver is hereby authorized to suspend or terminate, as he in the sound exercise of his sole discretion determines is necessary, any employee, officer, or agent of the church, subject to any contractual employment rights the suspended or terminated party may have, and to direct that said employee, officer or agent not be permitted access to any of the grounds or facilities of the church from and after the date of such termination or suspension.

Messrs. Armstrong and Rader will be permitted to continue their prior functions as representatives and authorities of the church unless and until they or either of them are removed by proper action of the church pursuant to its by-laws and articles; or unless they are removed by further order of this court pursuant to an application on the part of the receiver. If the receiver deems it necessary at any time hereafter pending the trial to move the court [62D] to remove either Mr. Armstrong or Mr. Rader or both, the receiver shall file a petition with the court on notice to the defendants. The court will hear the matters and make a determination on that issue. However, subject to their rights under the existing employment contracts which Messrs. Armstrong and Rader have, to the extent that those rights may hereafter be determined by the court, their compensation for services and their reimbursement for any expenses they may incur in the course of their employment

by the church, shall only be in such amounts as may be determined by the receiver in his discretion from time to time.

It is not the purpose or intention of this order to allow the receiver to interfere in any way with the ecclesiastical functions of the church, as distinguished from the college or the foundation, and the receiver shall not do so. This receivership will concern itself exclusively with the financial and business affairs of the church. The ecclesiastical affairs of the church shall be continued to be controlled and directed by its duly authorized ecclesiastical authorities. Notwithstanding the authority of the receiver to terminate or suspend persons from employment pursuant to this order, such termination or suspension shall in no way affect their membership or standing in the church.

In the event of any dispute between the receiver and the ecclesiastical authorities of the church, as opposed to the college or the foundation, over whether or not a particular matter is ecclesiastical, the plaintiff or defendants may apply to this court for a resolution of that dispute.

[62-E] It shall not be necessary for the receiver initially to take possession of, nor to deposit in any special receiver's account, the funds of the church now or hereafter received by the church; but the receiver shall supervise the deposits and disbursements of the funds by the church in accordance with the terms of this order. The funds of the church shall continue to be handled by its employees in the same manner and by the same bookkeeping, accounting and disbursing procedures as were in effect at the time of the commencement of this action, subject to the supervision of the receiver. But in any event, the receiver shall have the right, in the sound exercise of his sole dis-

cretion and at any time, to take possession and control of the funds of the church or any portion thereof required to carry out his duties. He shall take such possession if he deems it necessary forthwith on notification to the court and to the defendants and to deposit them for his use in the special receiver's account.

As soon as reasonably practicable, the receiver shall present a petition to this court outlining the nature and extent of the expeditures he has expended or which he anticipates will be necessary for the discharge of those of his duties which are peculiar to this receivership, and he shall seek approval or ratification of this court to incur and pay such expenditures. Pending the presentation and determination of said petition, the receiver is authorized to incur and pay such expenses as in his discretion are necessary or expedient to the immediate discharge of his duties.

The receiver shall not be required to seek advance [62-F] approval of this court for expenditures associated with the day-to-day operations of the church.

Until a final disposition of this matter is made, the defendants and each of them, and their agents, employees, or all persons acting in concert with them, are hereby enjoined and restrained from interfering with or obstructing the receiver in the discharge of his duties, or from withholding from him any of the funds, assets, properties, books, or records of the church.

Bond to stay the appointment of the receiver is fixed at $1 million. This may be paid from church assets without prejudice to the right of the court to assess the cost at a later time against any individual defendants as may be appropriate.

Counsel for the plaintiff is to prepare a written order for execution by the court, but nevertheless, this order

enunciated by the court orally and in court at this time is effective forthwith, pending the preparation and the signing of this written order.

Mr. Tapper: If Your Honor please, may the record show that Mr. Rader is present in court at this time.

The Court: For whatever purpose.

Mr. Tapper: I want the record to show, if Your Honor please, that Mr. Rader was present during the reading of the order.

The Court: All right.

Mr. Tapper: Thank you, Your Honor.

The Court: The record will so reflect. I believe [62-G] Mr. Ray is also present.

You may wish to talk to him, gentlemen.

Mr. Tapper: I wonder if Your Honor is open to any argument as to the amount of the bond to be posted pending appeal, because it is—

The Court: What bond? Posting of what appeal?

Mr. Tapper: I believe you set the bond to stay—

The Court: At $1 million.

Mr. Tapper: —the receivership at $1 million, Your Honor?

The Court: Yes. I think that is adequate.

Mr. Tapper: Well, I would remind Your Honor that the primary issue as to access to the records by the attorney general is one that really isn't quantifiable in terms of a $1 million bond, but if Your Honor feels—

The Court: You can always compute damages, counsel, one way or the other, not exactly scientific in the assessment of damages in any case.

Mr. Tapper: Very well, Your Honor.

(Proceedings concluded.)

Excerpts From Hearing on Depositions

REPORTER'S TRANSCRIPT

April 13, 1979

[8] * * *

Mr. Browne:

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* * * [Mr. Armstrong] has never had his deposition taken to my knowledge and based upon his age and his physical condition and his position with the church, he and one hundred thousand members do believe that he is God's apostle as the head of an ecclesiastical state, and we do have cases that say that the secular state requires that there be compelling reason and exhaust any other forms of discovery first before a deposition is taken; that this court exercise its discretion and require other forms of discovery first. I would submit, if this were the Mormon Church or the Catholic Church being sued, the court would vigorously defend the imposition of a deposition, and require some other form first, particularly, where these interests are so scanty in terms of what they are really asking about from Mr. Armstrong. Also, your Honor, I must comment that in the event that the Attorney General is going to make allegations that they said had been made in the complaint against Mr. Armstrong, and take the same approach that they took against Mr. Rader, I suspect that there is a good probability that we would accept the invitation of the Attorney General on the Miranda question. I don't know what his position would be there.

The Court: You know, gentlemen, one of the things that I enjoy about this case, and I will have to tell you that you cannot enjoy everything about this case, particularly, the volume of material that comes through the court, but one

aspect is the use of language, Mr. Browne, and when you refer to the first hour and a half of a deposition as [9] a brief session, I wonder if Mr. Chapman looked at it that way, and when you refer to the invitation not to answer from the Attorney General, I am going to be interested if the Attorney General viewed it just that way, but I want to tell you that I appreciate the way it's presented. Did I cut you short?

Mr. Browne: I think Mr. Brainard has the deposition transcript here, and, if I can just borrow it for a second, I think, I can read to the court precisely what was said with regard to the Miranda situation.

The Court: I have to figure it was a normal Miranda thing and, first, let's see what Mr. Brainard has to say, and, then, if you wish—

Mr. Brainard: As usual, after Mr. Browne finishes his little talk with the court, I don't know quite where to begin. There are so many points raised. With regard to Mr. Rader's deposition, I made it very clear to Mr. Browne and all of the assorted parties assembled for the deposition, that this was not a criminal proceeding, and we did not anticipate it becoming a criminal proceeding, and we made no determination in that regard, but it was a case where the allegations concerned the siphoning off of money from the church and the document, the deposition, once filed with the court would be a public document, and we want to make sure that he is aware of his rights in case he felt that he wished to exercise them for any reason. I repeated that statement to Mr. Browne two or three times during the course of the deposition that this is not a criminal proceeding, and we [10] are only attempting to make sure that Mr. Rader is aware of whatever rights he has under the Constitution. Mr. Browne had, I believe, stated every con-

ceivable objection to other questions at the deposition, and felt that, if he wanted to state that one, I wanted to make sure he wasn't overlooking one. That's all. Mr. Rader, of course, walked out of the deposition and refused to answer any more questions, despite the fact that the case law is quite clear that you can't just walk out on a deposition and refuse to answer questions on the basis of your rights against self-incrimination, but you must do so on a question by question basis. We have filed a motion, your Honor, to compel Mr. Rader's deposition testimony further. I had hoped to have it heard on Monday but pursuant to, apparently, a new policy of the court, we couldn't get an order shortening time to do so. The original of the deposition has been lodged with the court, and, I presume, the clerk has it in one of her cubicles some place, but, as I stated, this is not a criminal proceeding. We don't perceive it as a criminal proceeding, and the reading of the rights was strictly a precautionary measure. With regard to the other depositions, as I stated in my papers filed yesterday, and I apologize for that, but Mr. Browne's declaration signalled his outrage, the stonewalling of his discovery, after, of course, he has continually stonewalled our discovery, prompted me to put something in writing to the court. No one from my office, and I state it categorically, has spoken to any of these deponents regarding the taking of the depositions and the propriety of the serving of subpoenas [11] and notice of. As I understand it, an attorney for several of the parties here has called Mr. Browne and called us on the phone and said that they are not going to appear because they were not properly served. Another attorney has called Mr. Browne, I understand from Mr. Browne, because I haven't talked to them, saying that two or three of the other deponents are not going to appear because

they have not been properly served. I am not responsible for the fact that they can't serve these individuals. We have not advised them to either avoid service or to accept service. I advised the court at the time he set the depositions that we had no control over these witnesses; that they would have to get them. With regards to Mr. Armstrong's deposition, this is not a case of a pope or head of the Mormon Church or, certainly, not the case of a governmental agency where we have a figurehead and someone is taking care of policy. This is a case where Mr. Armstrong has percipient knowledge of the matters that we want to inquire into. * * *

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Excerpts From Hearing on Motions

REPORTER'S TRANSCRIPT

June 15, 1979

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The Court: You can relate that as you choose. We have three motions and I would like to consider the motion, plaintiff's motion for a protective order, and for an order of partial subpoena duces tecum first, with respect to Attorney General George Deukmejian and former Attorney Evelle Younger, and unless, unless the moving parties have abandoned their position, I would like to indicate a tentative ruling, and, then, we will see what comment you would like to make.

Mr. Abbey: I would be happy to hear your tentative ruling.

The Court: All right, it seems to me that the motion to quash for a protective order, as to this particular situation, should be granted for this reason. I don't really think that a sufficient showing has been made to justify this production and the taking of these depositions. I think you, certainly, can. By you, I mean the defendants can, certainly, conduct discovery by the use of written interrogatories and the answers or responses to those [6] interrogatories could, then, might well, then, produce what the court could consider as good cause for the taking of one or both of these depositions. Now, I am not making any ruling at this time. I don't intend to make any ruling as to your right to obtain any particular document that you might consider covered by your subpoena duces tecum, but, I think, you are going to have to go after them in the posture of interrogatories and requests to produce. If there is any objection to the proper notices to produce, the court would consider mat-

ters, anything raised about the question of confidentiality or on any other basis, either on an item by item or category by category standing. I think, I think that the plaintiff's position is sound at this time as to both Mr. Deukmejian and to his predecessor, since you really, I think, are talking about, at least, the court is talking about it, that you are looking for responses from Mr. Younger as Attorney General, and, I believe, the only way that he could act was as Attorney General at that particular time. So, I guess, you are the one to go forward.

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The Court: I am sorry, I shouldn't ask you to say something and, then, interrupt you but forgive me. I see the declarations and I will put them in the file. Declarations don't really take the place of discovery and I don't consider that they do. I have in mind that anybody who is Attorney General isn't going to know everything about every case, although it's entirely possible that he may know of a certain case than he would about the general run of the mill cases. • • •

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[22] • • •

The Court: Let's hear from the other side?

Mr. Brainard: I rather not respond to our mischaracterization about our position. Our position is that there are individuals in these charities which have a fiduciary responsibility to deal with charitable assets in good faith, and that they have an obligation to account to the beneficiaries of the charities, which is the public. Section 917.8 refers to corporations and members thereof. There are no members of the charitable corporation excepting the public as the beneficiaries thereof. • • •

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Excerpts From Hearing on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

July 6, 1979

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[5] • • •

Mr. Cordi: Your Honor, I think the plaintiffs are entitled to priority in their discovery in this case. I think the court has found that and we simply are not getting it. We are forced to respond to myriad discovery efforts on behalf of the defendants which are keeping us at bay while we are unable to conduct our own discovery. That's really the crux of the matter.

The Court: Are you then asking, let me see if I understand what you are asking for this morning, are you asking that no discovery on the part of the defendant proceed until you can take the deposition of Mr. Rader and/or Doctor Armstrong, or are you asking that certain, that certain depositions not be, that are scheduled, not be taken?

[6] Mr. Cordi: I think, more specifically, the latter, your Honor. It's not just depositions but there are several depositions scheduled by the defendants as of now. We believe that they should be held in abeyance. There are one hundred fifty-one interrogatories pending answers. We believe that they should be held in abeyance. The problem we have is that we are not getting a single bit of discovery from the defendants and yet we are by and large complying with their discovery requests, and they are by and large able to conduct their depositions and keep us from questioning the deponents whose depositions they are taking so far. This is well within the court's discretion in view of the obstinancy of the defendants to make any discovery

to us however justified they may feel the grounds are. We, of course, agree to disagree on that.

Mr. Browne: Can I be heard, your Honor?

The Court : Yes.

Mr. Browne: Thank you.

The Court: First, let's talk about the discovery other than Doctor Armstrong, and, then, we will get to Doctor Armstrong?

Mr. Browne: All right, we are in the posture, now, of having a great deal of discovery, which has been court ordered. For example, we tried on four different occasions to obtain the depositions of Alvin Timmons and Shirley Timmons and David Morgan and Hilel Chodos and Chester Roberson. We finally got an order from Judge Savitch to go forward with that discovery, and they are now set beginning [7] next week, July 17th, is the first one. To frustrate that discovery at this point doesn't make any sense whatsoever to me. Ted Armstrong also didn't show up for his deposition. I also brought the court current on that. We, finally, got an order from the court in Tyler, Texas. That's set for July 30th. There are two or three other depositions noticed by our firm into August and we had enormous trouble serving all of these people. They have all evaded service of process. We had to stake them out. It's been very time consuming and very costly, and we don't control any of these people. In addition to that, there are interrogatories outstanding, but discovery has been a two-way street, your Honor. The Attorney General, maybe he's inadvertently omitted to recall this, and I can understand it, there have been several people from their firm working on this case, and not all of them are privy to everything else but, for example, they have noticed the

deposition of Henry Cornwall, and that's to be taken next week. They have noticed the deposition of Ralph Helge. They have sent us a very elaborate request for production of documents from Helge to be produced, by Rader to be produced, by Cornwall to be produced, and they have also noticed a motion in this court to turn over documents that are in the possession of Bunner from Peat, Marwick and Mitchell, which this court knows about, to have documents turned over by Mr. Kuhn; to have documents turned over by Mr. Cole and Mr. Antion; and they also sent us a very elaborate set of interrogatories which we have just finished the answering and responding to. So the idea [8] taht this discovery is just one way simply isn't true. I would submit to the court that they can and we can proceed with our discovery while Mr. Rader's writs are pending. We have moved promptly from this court's order. We haven't attempted to purposely delay, and I don't think it would be fair to penalize Mr. Rader or any of the other defendants we are representing by staying discovery, because we are going up to the Supreme Court asking for a petition for writ of mandate. I think that's all right. Now, your Honor, if the discovery is delayed, I believe, that that will have a very profound impact upon the church generally, because the church is daily undergoing injury, which we need to complete our discovery on so that we can make motions for summary judgment in this court on a variety of areas, and we have detailed in the past some of this irreparable injury that is going on. It involves their credit lines and their vendors; their contributions were down because of letters that were sent out by the receiver to the ministery as well as the members; the sale of the Big Sandy campus, which they had going, was terminated because of this law

suit, and they are now spending one hundred eighty thousand dollars a month just to maintain that campus, and that's been a deficit. Their youth programs, they have seventeen thousand kids that they take care of with athletic, music, literature and art and we had to totally eliminate that national program and cut down on the local programs. There's eight-day convocations, fees of tabernacles that they have each year, which is the highlight of the religious program, and that [9] they usually subsidize, three to five hundred families to pay their way to go there because they can't afford it. That program has been curtailed. They usually spend one million and a half dollars for welfare and that's been curtailed. They have terminated one hundred church employees because they can no longer keep them on. Their Plain Truth which they have a distribution of three million a month, they had to curtail by forty per cent and cut down the number of pages. They have an education program for the handicap, the blind and the death, and they had to curtail that. Their program on alcohol has been curtailed. I could go on and on. The point is that if we stay discovery for any length of time, that's going to inhibit us from moving forward on motions for summary judgment, and that's going to penalize the foundation, Mr. Helge and Mr. Cornwall and a lot of other defendants, and I don't think that's appropriate, simply because Mr. Rader is taking a writ to the Supreme Court in a timely manner. So I would suggest that, since they started their discovery and we have ours on going, that the parties be allowed to continue in that vein, particularly, since most of this discovery is out of our control.

The Court: Mr. Browne, it's a little hard for me to really anticipate motions for summary judgment when we are

into now the seventh month of the litigation. We are completing the eighth volume in our pleadings file, and I am not sure that we are yet at issue, so I am not sure how soon a motion for summary judgment might be feasible, but you make a lot of representations about damages being done [10] to the church but you have not been willing so far, at least to my understanding, to make available one single financial document to substantiate any record with respect to the church, and, if there is any feeling that I have about the Worldwide Church of God, outside that I am sure that it is a church, that it is imminently viable. It seems to have a great deal of vitality and energy and push.

Mr. Browne: Your Honor, may I bring you current on one point?

The Court: All right.

Mr. Browne: In terms of the documentations that the Attorney General has, the Attorney General pursuant to a court order, which this court made a month ago, gave us a list last Friday of the documents which it has in its possession, eight hundred nineteen documents, your Honor. Thousands and thousands of pages including the most detailed financial information on the church going back ten and fifteen years. Memos that we have not yet been able to find ourselves. Perhaps, they have the originals going from Mr. Armstrong and other people and back and forth. They have a wealth of information. I don't know how they got it. I will leave that up to speculation but this idea that they don't have any information for an accounting is simply not an accurate statement at this point, based upon what we, now, know they do have. So—

The Court: Mr. Cordi, do you have a wealth of information?

[11] Mr. Cordi: Your Honor, we do have the documents that counsel indicated, however, we don't know how the mysterious Mr. Gotoh spent over two million dollars on church funds on foreign travel.

The Court: I am not asking you for a wealth of detail this morning. In other words, you do have documents. You do have something to go on.

Mr. Cordi: We have documents. The question of whether we have something to go on is something else again. I think the specific things that we want to know about have not been answered by the documents that we have, and the questions that I went over this morning about corporate authorization and Mr. Armstrong's control are very, very pertinent and very important to determining whether Mr. Rader actually had corporate authorization in the first instance to engage in all of these self-dealing transactions.

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[13] • • •

Mr. Browne:

• • • Number one, Mr. Armstrong, I believe, is in much the same position that Mr. Deukmejian and Mr. Younger were in. There is an analogy there and you recall we wanted to take the depositions of Deukmejian and Younger and the court said, "No, you haven't made a sufficient showing of good cause. We think you ought to proceed first by written interrogatories." And, your Honor, we would ask the same kind of treatment insofar as Herbert Armstrong is concerned. He's into his eighty-seventh year. He had a massive coronary two years ago. He is still working but his work is greatly reduced in the sense of

physical stress. I mean he's not travelling nearly as much as he did before. In fact, he used to travel three hundred days a year. Since his heart attack for the first year he didn't travel at all, and, I think, he has had one trip in the last six months, perhaps, but the point is, your Honor, that there is compelling reason why interrogatories can't be sent out first. Mr. Cordi in his moving papers and, again, this morning, indicates that he had certain questions he wants to put to Mr. Armstrong and on page two of his papers . . . these are the questions . . . primarily, whether or not the extraordinary amounts of money expended by trustees and officers of the charities were revealed to and authorized by the corporation can only be ascertained by inquiring of same from Mr. Armstrong. There's no reason why that can't be handled by interrogatory. • • •

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Mr. Cordi: May I speak to that, your Honor?

The Court: Sure. Excuse me, you know, I never know how these things are going to go except that I almost can be sure that this one will go a little longer than I plan. So when we finish this hearing, I will ask you and tell you counsel that are here on uncontested matters that we will hear those before we get to the rest of the calendar. Go ahead.

Mr. Cordi: Your Honor, I was looking for a list of the question that we put to Mr. Rader because Mr. Browne indicated that if we asked the same sort of questions of Mr. Armstrong, he would object, and those questions all had to do with the financial transactions that are the subject matter of this suit. So you see where the result is go-

ing to go, and, now, Mr. Armstrong in Mr. Browne's eyes has graduated from being like the pope but like a head of state, and, therefore, we can't take his deposition.

The Court: I don't think that's inconsistent with his position. I find it very consistent.

Mr. Cordi: I suppose on one level it is, your Honor. I think it's pretty clear that whether or not the deposition is taken has nothing to do with advancing the public state, and that's the reason why a head of state is protected [17] under most circumstances from that sort of thing.

The Court: All right.

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Excerpts From Further Hearing on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

July 19, 1979

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Mr. Cordi: Your Honor, as Mr. Brown is often fond of saying, we do have an additional housekeeping matter that we would like to bring up with the court.

The Court: I hate to see some habits proliferate.

Mr. Cordi: I sympathize. Counsel and I have had a disagreement over the meaning of your order of July 6th, the ruling upon our application for a protective order and to hold Mr. Rader in contempt for failure to appear at his deposition. Our application for a protective order was for a stay of all discovery.

The Court: Wait, just a minute, and let me get my notes on that particular matter?

[5] Mr. Cooper: Is it your Honor's intention to sign the order that I submitted to you so that I will have something to serve on Mr. Gibson?

The Court: Forgive me. I didn't get past your signature on the declaration, so, now, I will have to look at the order. Probably so.

Mr. Cooper: Thank you.

The Court: All right, I have before me, now, the portion of the file that has the minute order of July 6th, and I have my notes with respect to that.

Mr. Cordi: I have not yet seen the minute order of July 6th. I assume it's in the mail but, your Honor, we had asked in our application for a stay of all of discovery, and you had taken the various categories of discovery that were,

then, pending, and treated them one at a time, and, as to the pending depositions of the defendant, it was our understanding that you had ordered that they will go forward, and, I think, everyone is in agreement on that. As to the pending interrogatories, you ordered that, according to my recollection, that they will be stayed really until further notice or that they will be stayed until Mr. Rader gives his deposition but, at any rate, they will be taken up again on August 1st for the court to consider further. Now, there is one final category of discovery, which was pending at the time of our hearing on July 6th, which although is encompassed within the application, I neglected to mention, specifically, and, I think, perhaps, the court overlooked it, and that was the fact that there was, then, pending and is now pending [6] the defendants' notice to us to produce documents, and it had been our intention, and, I think, as expressed in the moving papers, to ask the court to stay the production of documents on the same basis as the court stayed our answers to interrogatories, but in the heat of argument, I think, I forgot to, specifically, mention in an oral argument, and, I think, perhaps, the court overlooked it. I think Mr. Brown is of the opinion that, well, your ruling encompassed that and by implication denied that but I wanted to bring it up with you today, and get a clarification.

The Court: I have, I think, a pretty good recollection of the state of my mind at that time. It was my intention to stay the discovery with respect to the interrogatories, with respect to any other matter, which would have included the production of documents other than the depositions which had been set, which had been the subject of various delays for a number of different reasons in all probability in which had been set with some difficulty, and I felt it was

not appropriate to stay the taking of those depositions, so we will make—

Mr. Cooper: Can I be heard for just a minute?

The Court: Go ahead.

Mr. Cooper: Unfortunately, it seems to me the same difficulty has also attended the production of the documents. We served a notice to produce some months ago to which no objections were filed, no response was made and no documents were produced, and that the hearing on the motion to compel the production, the court concluded that the form of the motion [7] did not comply with the court's rules and denied the document production on that basis. Subsequently, we attempted to cure the defects in them in the form of the motion. Basically, we reserved the notice. Again, I don't recall this time if objections were filed or not but another motion to compel was brought at that point, and the court concluded that it would order production of some of the documents, and, as to others of them, the requests were overly broad, and had denied the motion on that basis. So we served yet another request for production of documents, much more tailored and designed to meet what the court felt was objectionable with the second set, and that is that document request that is currently pending. So we have been trying to get the same documents for three to four months now. My understanding of the situation always has been that the only type of priority and, therefore, the only type of protective order, which, generally, is issued in connection with an order of discovery which is preservation of order of deposition is based upon the date of service of notice, which is found in Section 312 (g) of the discovery manual. In all other cases, generally, there has to be a showing and a strong one, generally, of good cause to delay

production. Now, my understanding is that Mr. Brown offered the Attorney General's Office if they needed an extension of time to comply with the document request, he offered an extension of time, and on the record I repeat that offer of a reasonable extension of time if they need it. What concerns me the most is my understanding of what they want. They want an actual stay of their [8] obligation to produce or even respond until August 1st, and, then, assuming at that point that the court decides that Mr. Rader's deposition should be resumed and orders it, then, they will want a stay based until after that is completed, and on and on and on and on and I don't quite frankly see that that is justified under the circumstances. We have been trying for an awful long time. It's their burden to show the good cause and I don't really see that they have done it. If the court wants to give them an extension to August 1st, I would have no objection to that or even past August 1st. Mr. Brown's concern was that he didn't want the Attorney General's Office to attempt to use an extension as a basis for arguing that they should be entitled to a stay.

Mr. Brainard: Your Honor, —

The Court: Excuse me, we are not going to spend a lot of time on this because I am going to ask the clerk to make a nunc pro tunc entry referring back to the July 6th hearing, since I do believe that a sufficient showing was made in the overall posture of this case, which does not run, does not proceed as a normal case, at least, in my, as the late Judge Gitelson used to say, in my humble opinion, and we are going to take a frequent look of things on August the 1st, and I have high hopes that we can all see some progress and some opportunities for progress at that time. So we will get a nunc pro tunc order that the production of docu-

ments is also stayed to August the 1st, and we will see what is appropriate at that time, and I wouldn't say that your prognosis as to what the Attorney General might be requesting [9] at that time would be out of line but the ruling, the nunc pro tunc order isn't prejuding what the court will do at that time.

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Excerpts From Hearing on Motion for Judgment on the Pleadings and on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

August 7, 1979 and August 8, 1979

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Mr. Browne: • • •

This letter is signed by the Attorney General, Deputy Attorney General in this case, and it says, "This is an action brought against individual trustees of these three charitable corporations; not against the church. Stanley R. Rader, petitioner herein, is one of those trustees. The church is named as a party only because it is an indispensable party vis-a-vis the relief prayed for." The importance of this letter, your Honor, is that it highlights that the church is a nominal party in this case, and, I think, that that is particularly significant when we look at the relief which is devastating, the Attorney General wishes to impose against the church. The case that we have got here has probably had more than one hundred thousand pages written in the court file, and we are really talking about a couple dozen words that everybody has been trying to interpret, and those couple dozen words is that Congress shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof. Those couple dozen words are, and we are really coming to terms with, and the cases have said interpreting those words is that there must be a separation of church and state. There must be a wall between church and state. There must be no entanglement of church and state. These are shorthand definitions of what that means. So in light of those statements and the

statement in this letter that the church is a nominal party, let's look at what the First Amended Complaint asks for, and there are a lot of new things that they have asked for. There are eleven [4] points that I wish to summarize briefly here, many of which are not in the first complaint filed. Number one, and this is repetitive in the sense that they want an accounting. It's clear that they asked for an accounting in the first place. Number two, they want to remove certain officers of the church. Number three, and this is totally new, your Honor, on page ten of the complaint, paragraph seven, I am sorry, page seven, paragraph ten, they make the statement as follows: Referring to these, to the church and its related entities, the ultimate beneficiary in each instance is the public, which means, generally, from all charitable endeavors, none of the defendants, that would include the church, the college and the foundation, has or may legally have any proprietary interest in the assets and properties of the church, the college or the foundation, nor in their books and records. That statement is not found anywhere in the original complaint and they are really saying that the state owns it all or the public owns it all but the church doesn't, and, I think, that this is a very prime indicator of this relief that they seek beyond this. It's based upon the assumption that the church has no proprietary interest in these items, and, I think, that that is critical, because in England common law, which is what the Attorney General says it is relying on in asking for this accounting in substantial party, is where the king was the head of the church and state. We don't have that here. In fact, the first amendment prohibits it. So we have this accounting, as I mentioned. We have got the statement here [5] and they

want the court to give its approval that the church, the foundation, the college have no propretary interest in any of the property or the books and records, and, then, they want to remove the officers. What else do they want to do? Number four, they want to rescind employment contracts that have been approved by Mr. Armstrong and ratified by the Board of Directors. Number five, they want to restrain employees from serving Herbert W. Armstrong according to his will and choice. Number six, they want to change the Board of Directors of the church for an "independent" board, and that flies in the face of the by-laws which provides that the Board of Directors serves at the pleasure of Mr. Armstrong. They want to change that. Number seven. They want to give the members the right to vote. Almost, I suppose, like women's suffrage. Right now there is a hiearchal church. The members join it knowing that Mr. Armstrong exercises control. They want to change this to a Congregational concept. Number eight. The Attorney General in this pleading wishes to supervise all aspects of record keeping of the church operation. Number nine, there's a cause of action in which the Attorney General seeks to have a receiver installed to operate the church and take possession of all property and assets. Number ten. Complaint asks for an injunction against selling, hypothecating, transferring or conveying any property of the church. Number eleven, and lastly, they want to forever prevent certain church employees from ever holding office in the church again or any other charitable foundation. Now, with this relief, I think, the court [6] is faced with the question, does this in the aggregate amount to an entanglement? Does it amount to crossing the line of separa-

tion of church and state? Does it amount to prohibiting the free exercise? This is a unique case. I will be the first to tell you that. There's never been a case ever decided in this country where this kind of relief was sought. Now, we may disagree, and, I think, the court has indicated before that, perhaps, the Attorney General has a right to the accounting. I would respectfully disagree on that approach. I would urge the court to consider what the Attorney General is asking for beyond that. This complaint goes far beyond the concept of a simple accounting. Every case that the Attorney General has cited, like the Queen of Angels case, all deal with either property disputes where the court has stepped in and said, "We have a right to adjudicate whether this particular piece of property belongs to the main piece of property or the splinter group." The Queen of Angeles case involved the operation of a hospital where they said this was a secular kind of operation. Yet the problem remains. What if there is blatant theft? What if there is blatant misappropriation? How does the court handle this? What supervision, if any, does the court or the State Attorney General have, and I am not suggesting that in an appropriate case there is no relief. What we are suggesting is that the court must balance the harm to the church and the membership versus the wrong that seeks to be changed or righted, so to speak, and the court must require the state to take the least intrusive vehicle to [7] change or turn around the situation which would be in one situation the use of our criminal laws, and we have cited cases for that. The Cantwell case that suggests that or an administrative proceeding to revoke the tax exemption of the case or even, perhaps, a civil fraud suit by the members

themselves if they feel that they are not having their funds used properly. One thing that, I think, is interesting in this complaint, your Honor, which is nowhere to be found, and I don't think that we have raised this before, is the fact that there is not an allegation or even a hint that the members do not know what is happening or why the money is being spent or for what purposes the money is being spent. This is to me a very critical point because it's my concept, your Honor, that in the area of religion we should be dealing with more the biological approach, and that is if the church engages in a policy that the members know about and do not approve of the evolutionary process will be that they will break away and go to another church more to their liking. It happens all of the time. This is not of record but the Attorney General knows that, and that is that Mr. Armstrong has pursued this endeavor, the policy of spending money for trips abroad and fine arts for the church, buying art for the church, etc., for three decades. Garner Ted Armstrong testified that in 1974 thirty-five ministers and two thousand members left because of that but the point is, that is outside the record, the point is that there is nowhere an allegation that the members in any way were defrauded. They know precisely how this money is [8] being spent. Now, let me move to a different point on the motion. There's another reason why the motion for judgment on the pleading should be granted, and I gave the court our first reason, and that is the scope goes way beyond the question of entanglement. The second is this, your Honor. Virtually every allegation in the complaint is made on information and belief; every charging material allegation, and the law is pretty clear that information and

belief may not stand up where there is actual or presumed knowledge of the facts. Now, since the hearing on the last demurrer, something occurred which I consider to be very, very revealing and enlightening which we did not know about. The court will recall that we made a motion requiring the Attorney General to turn over documents belonging to church in its possession. When we learned that they had certain financial statements that we had never seen before, and the court granted and denied the motion in part and said that they did not have to turn over documents, but they had to list the documents that they had in their possession, if the court will recall that, and a couple weeks ago we received their list of documents. Your Honor, it's in the file but it is fifty-four pages long their list of documents, and the list encompasses eight hundred and nineteen church documents which they have in their possession, and I should tell you, your Honor, preliminarily, that many of these documents we cannot find. Many of these eight hundred nineteen documents we cannot find. Since we have got the list, we have tried to find our own copies, and we have [9] no idea how they obtained these documents, but I want to take a minute and tell the court what these documents are. I am not going to read you eight hundred nineteen but I am going to give you some categories to let you know what information they have in their possession. Number one, they have tax returns going back for ten years for the church, the college and the foundation. They have budgets of these entities. They have financial reports going back many years for each of these entities. They are intra-church, college, foundation reports. They have financial statements both audited and unaudited for the church, the

college and the foundation. They have letters going from Mr. Armstrong to his son, from Mr. Rader to Mr. Armstrong, from Mr. Armstrong to Mr. Rader, dealing with the most intimate information dealing with the church, not only in its operation but in its policy. They have memos that fall into that same category. They have letters from the accountants of the church back and forth to the church on church financial matters. They have attorneys correspondence, which would be clearly protected by the attorney-client privilege, going from the church to the attorneys and back and forth, not only to Mr. Helge's firm but to outside lawyers as well. They have reports that deal in detail with church expenditures going back as much as twenty years. They have memos dealing with the internal control procedures of how monies are to be handled. There are communications between priest-penitent that they have. They have memos, documents, dealing with the aircraft leases that they have been discussing in their [10] pleading. They have tax returns of Worldwide advertising. This is the other entity that they claim that Mr. Rader had an interest in; plus all sorts of documents dealing with the program that the church maintained, and the business relationship between the Worldwide Advertising and the church. There are all sorts of data on the Beverly Hills home of Mr. Rader. They have the compensation records of all the officers. They have the executive payroll. They have check stubs to the executive payroll. They have by-laws and articles of the church, the college and the foundation. They have income comparisons for each year based on what members have donated. Cash flow forecasts for five years. They have lists of bank accounts of the church and the college. They

have an analyses of income and expenses going back many years for the church and its entities. They have charts and graphs of the church's growth for ten years. They have statistics going back many years on the donations of all the members, comparing the donations that they have given over the years. They have holiday offering comparisons of various years. There are reports for cash receipts and cash disbursements for the church and the college. There are financial reports for executive management consultants. There are property leases, promissory notes and church audit work papers made by the accountants. There is a computer lay-out description which is a road map now of the computer, which has all of the information in there described, which I have given you. Balance sheets and executive expense analysis for all executives. [11] Now, these are just categories based upon the categories that they have indicated but they go back, they go back years, and, as I say, many of thse we don't even have. Now, I want the court to consider the fact that, number one, they have this information in light of the letter where they say that the church is only a nominal party, and in light of the fact that they say that this is really directed at all of these individuals, and further and more importantly, in light of the fact that they still allege information and belief, and, as I say, your Honor, I think the law is clear. Information and belief allegations cannot stand up where there is actual or presumed knowledge of the facts. Now, I can only assume one of two things when this is alleged on information and belief, that it is all conclusionary, words like misappropriation, pilfering, syphoning; all conclusionary. Either they don't have any evidence of wrong doing or, if they

do, they are not willing to plead it at this juncture, and, I believe, your Honor, in fairness, that the Attorney General must come forth at this point and tell us what they have got in this pleading, and not put it on information and belief and in conclusionary form. Lastly, your Honor, I feel that the court must consider that this is not a case where a pack leader in the Boy Scouts of America is alleged to have done any wrong doing. We have a church here and these members believe spiritually in their leader, and the court must use a scalpel, not a sledge hammer, and the Attorney General must use a scalpel in carving out whatever relief might be appropriate, and, [12] I think, the basic issue on this first amended cross-complaint, which I say goes far beyond what they alleged before, is whether they can get the massive relief that they have requested, all of the way from the accounting to the changing around of this church to the point that, I think, the state has viewed the church as an entity that a court might look at if it were in a bankruptcy proceeding. Let's just reorganize it. Change the entity in a way that it suits the court. I don't think that that is appropriate in a First Amendment case.

Mr. Horvitz: May I add something, your Honor, on this point?

The Court: All right.

Mr. Horvitz: Very briefly. I think Mr. Browne has taken the overview. I would like to point out two or three specific points. Concerning all allegations virtually being on information and belief, I would like to call your Honor's attention to a statement by the Attorney General that is exactly to the contrary of his pleading. It's in the case of Lopez vs. the State of California, which is the related tax-

payers suit in this case. On April 10th of this year in a document entitled Response to Order to Show Cause re Preliminary Injunction, and, then, again, I understand, within the last two weeks in a summary judgment in that action, the Attorney General says the following and this is a quote:

> "In the latter part of 1978, the California Attorney General undertook an investigation into the financial affairs of the Worldwide Church of God, [13] based in Pasadena, California, certain other non-profit charitable corporations associated therewith and various officers, directors and employees thereof. This investigation revealed to a substantial certainty that Herbert W. Armstrong, the Pastor General of the Worldwide Church of God, and Stanley Rader, the Treasurer and general counsel of the church, among others, were guilty of misuse and misappropriation of millions of dollars of church assets."

They say to us with substantial certainty that their investigation back in 1978 established these facts. They have now acquired hundreds of additional documents. Why are they permitted to continue to plead on information and belief? To further indicate the contrast, if you look at this complaint, this first amended complaint, while in the Lopez case the Attorney General says that they knew to a substantial certainty that Herbert Armstrong was stealing. Listen to what they say at page eleven of this First Amended Complaint starting at line two, referring to Mr. Armstrong.

> "The exact nature and extent of his involvement and participation in the diversion of charitable funds hereinabove alleged, at the present time or in the past is currently unknown to plaintiff."

Well, which is it? Is it unknown or do they know to a substantial certainty. It seems to me that that kind of game playing with the court and with the church and with the parties shouldn't be tolerated. I don't think it should be tolerated by a private litigant of the church, [14] and it certainly shouldn't be by a public entity. In paragraph eighteen of the first amended complaint they refer to the fact that since this action was filed, defendants Rader and Helge have done everything within their power to delay plaintiff access not only to the books and records to the church but to individuals with knowledge of the operation of the affairs, etc. What they are saying is that defendants Rader and Helge have resisted this law suit and asserted their rights. That's essentially what it comes down to. In paragraph twenty, they, then, say that they acts should bar them from holding church office. I think that's shameful. What they are really talking about is the fact that they are resisting this law suit, and when resistance to a law suit by asserting a first amendment right becomes a ground for removal, it's shameful and it's shameful to have that in the complaint in the first instance, and shameful to allow it in later. One other point. In paragraph twenty-two, the Attorney General requests that all of the individual defendants, I guess they leave out Mr. Armstrong:

> "Should be perpetually enjoined and restrained from serving as officers or directors or in any other capacity

with respect to church, college, foundation or any other California charitable trust or organization."

Perpetually enjoined. Does your Honor have the authority to perpetually enjoin them from holding church office based on a civil proceeding? I would submit that even if they [15] convicted murderers, it would be within Christian doctrine for Mr. Armstrong to grant them forgiveness to allow for redemption and to put them into office if he wanted, and, if he can do that, then, of course, the court can't grant this relief. The court can't grant any relief along that line. That is, fundamentally, a religious matter. That is not a civil matter. I would go farther or maybe, perhaps, not as far. Let us assume for purposes or argument that there was stealing, as indeed there was with one of the men who gave information to the state, and Mr. Armstrong said, "I will forgive you for that, as he indeed did with this man. Can he do that? It's certainly within the Judeo-Christian concept that he can. That's a fundamentally religious decision and, if Mr. Armstrong can make that decision, then, this court can't make a contrary decision, and those types of allegations and requests for relief in the pleading have no basis because they are beyond the jurisdiction of the court. They are into fundamentally religious matters. A case of total entanglement.

The Court: All right.

Mr. Horvitz: One final point, and this was not before the court on the demurrer, is that there have been a number of United States Supreme Court cases which have come down since the previous hearing, including the case of the United States vs. 564.5 acres in which the Supreme Court

said flat out that church property is not dedicated to a public purpose, and, if that is the case, then, my question is what standing does the Attorney General have in this.

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Mr. Helge:

* * * If the public has any benefit at all, your Honor, it's called an incidental beneficiary just as a person who, incidentally, may profit by the performance of a contract, cannot enforce the contract. So a person cannot enforce a trust merely because he may, incidentally, benefit from the performance of the trust. The beneficiaries of a trust include only those persons upon whom the maker intended to confer a beneficial interest. Your Honor, doctrinally speaking, there is not one church member that intended to convey a beneficial interest in the public. That would create a couple of wrongs, your Honor, doctrinally speaking. I am saying that their only obligation, Biblically speaking, is to preach the doctrine to the word so it won't be contradictory to the doctrinal belief.

The Court: You have been at this now almost an hour, and so I am going to ask you, if you would, please, to sum up your position on these two particular motions.

Mr. Helge: All right, your Honor. The summation of these two factors, your Honor, is that the church is not a charitable trust and that the public is not the beneficiary of churches, and, your Honor, this must be so, and the Attorney General must cite law to prove it in order to have jurisdiction and standing. Their jurisdiction cannot be just assumed. If the court, if I could refer the court to my memorandum in the Wheelock case, a very recent case, The

Presbytery of Riverside vs. the Community Church of Palm Springs, 89 Cal. App. 3d 910. It's a 1979 case, your Honor, that brings Wheelock right down to date. It [31] says in no place, your Honor, that the public is a beneficiary but they openly talk about whether or not it's the general church or the Congregational Church, etc. Your Honor, I know you heard arguments on 9505. I won't go into that. Insofar as the common law is concerned, there's a specific provision that says there is no common law of England. It's repugnant to the Constitution of America. It's very clear, your Honor. It's absolutely repugnant the position that they are trying to take. I feel that their enforcement . . . it's a little different point when it gets down to the taking of my deposition. That, your Honor, has to do with their concept that trustees of the church or directors, which I am not, your Honor, in spite of their allegations, has a duty to account to the public and to the court. Now, your Honor, they make that statement. Your Honor, if you have accountings in this court from the Catholic Church and the Mormon Church and the Seventh Day Adventist Church, the Lutheran Church, then, I will be close to conceding that point in recommending to the client that they account but if you do not, your Honor, then, I say that Article I, Section 4 of the State Constitution provides that there shall be free exercise and enjoyment of religion with discrimination or preference, without discrimination or preference, and, your Honor, the Attorney General has never gone in to make these other churches account to the public or to this court, and I say, as a consequence, it's an improper enforcement of the law, absolutely discrimatory, and that, as a consequence, your [32] Honor, it's a

nullity their particular thrust. I won't dwell, your Honor, upon the rights here. The fact is that this does not leave us up in the air where people can pilfer from churches. If you will look on page eleven of my memorandum, you will find all of the different means of preventing wrong doing, and the Attorney General, your Honor, would have you believe and tell you, your Honor, that they are the only ones other than the trustees that can come in. They told another court just the opposite that no one can come in. Now, they are willing to make a concession under the Holt case that the other trustees could come in. The Boy Scout case, if I may quote in a minute, which says, your Honor, that the Council of Boy Scots, and in my mind that's akin to the Church of God, could come in to the World Wide Church of God if there were wrong doing, and bring any particular action that had to be brought. Your Honor, that's 14 Cal.App.3 189. The Board of Directors could do it, and, your Honor, there are twenty-nine directors of these three corporations, twenty-nine of them, your Honor, in spite of the fact that they keep saying that there are no Board of Directors. There are and I meet and talk to them, your Honor. Sometimes some of them every day. So the long and short of that, your Honor, is that there are means to enforce wrong doings, and those means do not vest with the Attorney General. Insofar as my deposition is concerned, your Honor, I feel that the complaint is vague and it is over broad. There's no possible way that I could know whether or not questions are actually relevant. It's too [33] vague to defend, your Honor, and, unless they tighten it up and show me where the wrong is, your Honor . . . that is supposed to have been done, and I am being

deprived of a defense in due process of law, and my privacy is being invaded, your Honor. They are coming in and asking, your Honor, for my private personal checks for about twelve to fourteen years back. If I can make one comment . . . you know, when I was a kid in law school and they talked about indictments, they talked about specificity in indictments. That's ridiculous. He knows what bank he robbed. I tell you what I learned in this case and that is the guilty man knows what bank he robbed but the innocent one doesn't know what wrong he has done. If I have done a wrong, then, your Honor, hasn't simply put it forth so that I can defend it. If I have pilfered millions, how in the world did I do it? When did I do it? Give me some general dates of when and where and how. This complaint, your Honor, is criminal in substance. It's very clear. On page forty-six of my memorandum, your Honor, I point out that there are six crimes charged here, your Honor; six of them. I was there when they gave the Miranda warnings. I was here, your Honor, when they tell me, "Well, perhaps, you haven't done anything wrong but you can be kind of a co-conspirator in this thing." But nobody has done any wrong, your Honor. Your Honor, I would like to quote here also from the declaration of Mr. Brainard. He says on this Miranda warning that was given that it was given . . . this was filed May 2, 1979 . . . this was given in an excess of caution, in an excess of [34] caution. What caution, your Honor? What does that mean? You know what that means, your Honor, that they wanted to be very cautious that they could use every word that came from our mouth in a criminal prosecution. What else could excess caution mean? That's why they gave it. They had a specific

intent to try to use everything they could in a criminal case, but they are going to come up empty handed, your Honor. As I have already quoted, there's a substantial certainty. They also, your Honor, have documents and this is in closing, your Honor, that were stolen. I send a demand to a newspaper to return documents that they also have of internal church documents that were stolen from the church, not distributed. I was advised by the attorney for the newspaper that people are coming around and selling them internal church documents that were stolen; offering them for sale. I don't know where the Attorney General got his but I want to know that before I go down and testify, for in my mind, your Honor, any questions leading from those stolen documents are subject to being suppressed. These documents are not incriminatory. They are exculpable. I have a right to have them suppressed and not answer any questions regarding them. The last two points . . . the cases that I quoted of Dunway and Brown say that before you can pick a man up, before you can interrogate him, before, your Honor, you can[?] ask him his name. There's got to be probable cause for arrest. This complaint, your Honor, has six crimes. I contend that there is absolutely no probably cause for filing it. The probable cause was attorney fees, your Honor, [35] and that's all and until, your Honor, they can show me probable cause, I feel that I have a right not to testify; that I have a right to remain silent. Please, let's not confuse the Miranda case. The Miranda case never created the right to remain silent. All that did was to take an ancient right that existed, you know, long before the Constitution, your Honor, and was put into the Constitution the right to re-

main silent any time the state came up and said, "Hey, we have a crime here." Directly or indirectly in a crime, there's a right to say I am not going to speak, and there is case law that has been quoted, your Honor, to the effect that even though it's a civil case, if they say criminal elements are lurking in the background, a person doesn't have to testify. Here's the last point, your Honor. You know, they contend that you don't have a right to remain silent, Helge. You can always plead the Fifth. I don't want to plead the Fifth because that does carry a connotation with the public of guilt regardless of what we try to teach, and, otherwise, and, your Honor, I am guilty of nothing, and I am not going to enhance any presumption in the eyes of the public. . . .

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Mr. Browne: Thank you, your Honor. In order to discuss the provisions of the protective order, particularly, that which the court has already granted, I would like to back up and indicate for the court that, in effect, there has been a stay on discovery on these particular items we are talking about that go back to April. There are three items that are really subject to the stay at the present time. There's a set of interrogatories, your Honor, in which we are asking for facts and documents in support of the allegations of the complaint. That's the first thing. There's a second set of interrogatories which we served and which are contending interrogatories. They can simply be answered yes or no and there are about sixty interrogatories in that category, and they really ask for legal contentions, which under the Burke case, I am sure the court knows

that we are entitled to ask, and the last thing involved is a request for production of documents which the court stated. Now, the court will recall that in about April of this year, more than four months ago, we sent out a set of requests for admissions and interrogatories that were combined together, and, perhaps, the court will recall that they were objected to on the grounds that the case was not at issue, and requests for admissions were not appropriate at this time, and, since the interrogatories were linked to the requests for admissions, the court said that they [51] didn't have to answer those either. At that time I asked the court, "Well, if we were to send out an interrogatory, would that obviate the problem?" And the court indicated, not wanting to give an advisory opinion, that you would have to look at them specifically, but that yes, we could send out a set of interrogatories. So, then, we revised a set of interrogatories and sent them out shortly after April. They were extant for a period of time. They were objected to. So we then, brought on a motion in May to have them answer the interrogatories and at that point there were proceedings, and, then, eventually the stay was given to them so that the interrogatories were not required to be answered. The point is that we have been trying to get answers to interrogatories really since the beginning of April. The same is true with regard to the production of documents. We brought on a motion for production of documents. The motion was denied in part because they were too broad. We, then, came on for a motion for reconsideration. The court reconsidered and, now, we would like for them to produce in large part the documents that are listed in connection with the eight hundred nineteen

documents which we now know that they have in their possession, and this request for production of documents is particularly important to us, your Honor, because, as I indicated yesterday, many of the documents which the Attorney General claims it has, and we do not have, and we can't find copies of them. So we need those and the contentious interrogatories, as I have suggested, have been outstanding for about six or [52] seven weeks now. They were almost due at the time the stay was granted, and the stay has been in effect for a month. So this is discovery that we have been frustrated about that really goes back to April. Now, the only reason that I can assume that the court granted the stay was because of Mr. Rader's refusal to appear for his deposition because they came up at the same time, and the court said, "Well, I will stay discovery until we decide that we are going to do with Mr. Rader on August 1st." They were consolidated at that time. There was no and, of course, that's part of their motion for protective order in connection with the action for contempt and other sanctions. The point, your Honor, is that I do not believe that it would be fair or just to delay our discovery and penalize us, and I say us in the sense that I am representing more than Mr. Rader. There are other defendants as well. Why should Henry Cornwall or Ralph Helge or any other person or entity be refused discovery because Mr. Rader is not appearing for his deposition, and, number two, is not doing so not in the sense that he is being willful and acting in bad faith. He is simply pursuing his appellate remedies here. We haven't dragged our feet. We have moved expeditiously to the Court of Appeal, the Supreme Court and, now, the United States Supreme Court,

and, I think, what the Attorney General is suggesting as long as we are pursuing our appellate remedies, that's good cause and reason enough to keep us from finishing up discovery in other areas. I don't think that shows good cause. Secondly, the Attorney General is moving [53] ahead very quickly in other areas. We are here on a motion today because they want answers to interrogatories, and they are not being stifled in any other respect, and they are moving ahead noticing Mr. Armstrong's deposition, requesting answers to interrogatories, request for production of documents. We, in effect, lost, as a result of this stay, more than a month of priority which we had and, now, they are moving ahead in other areas with other forms of discovery. So I would submit, your Honor, that there's no reason to stay the answers to these interrogatories or their request for production any further.

The Court: Mr. Browne, I have a high degree of respect for you as a person and for your abilities as a lawyer, and it takes a firm belief on your part, which, I believe, you have in the justice of your cause for you to really press the court to continually allow defendants discovery here, and as you are well aware, although there has been no indication to mention it this morning, the court has not stayed or precluded your taking of a number of depositions. How successful the depositions may have been, I have no idea but you have been able to take depositions of plaintiffs and other witnesses. I don't know whether you have been able to take the deposition of the plaintiff, but you have been able to take the depositions of a number of people that you sought to depose, but, as far as I know, not only has Mr. Rader failed to make any discovery here, but I am unaware

of any discovery that's been, that's been afforded by any defendant in this case, and, honestly, on [54] the basis of the representations made by counsel in this matter, counsel for defendants, I have no impression that any party defendant has any intention of complying with any order of the court to make discovery, and to say, and I can understand that defendants feel that they are within their rights in taking that position, but to say that when the defendants are making no discovery, then, it is not fair to inhibit the defendants making discovery of the plaintiff's position is incongruous.

Mr. Browne: Your Honor, the point is this. We are put in a very difficult dilemna because what, I think, the court is suggesting is that if we waived what we consider our Constitutional rights, you would allow discovery to proceed but if we object on the basis of a right or a privilege that we feel that we have, and we, then, take that to a court of higher resort, that somehow we ought not to be able to continue with our discovery in the interim. The Attorney General is bringing on motions to compel, and I am sure that these motions to compel will eventually find their way up to a higher court as well. That is a way of pressing forward their claims.

The Court: Mr. Browne, we are here on a case that started the first of the year. We are in the ninth volume of pleading. The pleading, I am sure, although I have not measured them but, having in mind the average size of a volume in the courtroom, we have to be talking about four feet plus of pleading so far, and we are not yet at issue. I have no, I have an impression but I have no information [55] as to how many thousands of good lawyer man hours

have already been devoted to this case. I have no conception but I have an impression that we must be talking about hundreds of thousands of dollars that have been expended in lawyers' time in the prosecution and defense of this case. I have no idea as to how this case is going to be determined. I have no belief that somebody has done something wrong here. As I have said many times to you and to other counsel in this case, to me this is not a First Amendment situation. This is a case that involves, basically, an accounting. Other things are mentioned but, basically, we are talking about money. We are talking about the stewardship of certain officers and leaders of the church. We are talking about their responsibilities as custodians of the finances of the church, and I really have another impression. I can't say that it is a belief but I have an impression that had this First Amendment not been so vehemently pursued by you, although I don't for an instant question the good faith of the defendants or of their counsel that have advanced these positions, and it has caused me great trauma, as I think you are aware, but had this First Amendment position not been so tenaciously adhered to, had discovery been made months ago, it may well be that this case would have been over long since. If there is no substance to the case, we are in one position. If there is substance, it's a matter that is going to have to be litigated over a greater length of time. I am not saying that you cannot do what you feel like you have a right to do as far as taking a [56] position and supporting it, but I do feel that this is costing a lot of the court's time of the substance of the People of the State of California as reflected by expenses to the Attorney General's Office, and certainly by the church and/or whoever

else is bearing the burden of the very resourceful and tenacious and thorough presentation that is being afforded the defense in this matter, but I have read your documents in detail and it's a matter of great concern to me. I read the material that Mr. Horvitz left with me yesterday in the briefs and replies in the requests for petition for certiorari. I woke up at three o'clock this morning and I laid awake for an hour and, finally, got up and walked around my house because, I think, that these problems are so difficult but I do divide this in my mind in sections, and one section has to do with the operation of the church. It has to do with church doctrine. If the doctrine of the Worldwide Church of God is consistent with Mr. Helge's representations that people are to live well and that they are to live as well, and the church is to be presented in as beautiful and wonderful a fashion to the rest of the world as an example of how God fearing and God believing people should live, fine. I see no problem in that as a doctrine of a religious organization. That does not mean that people can't be asked questions about money which are to this court a very different matter. So, and I have given thought previously to the Miranda rights problem, to the Fifth Amendment problem as it is reflected in Mr. Rader's problems, and I appreciate Mr. Horvitz and your mentioning on numerous [57] occasions that the alternatives that Mr. Rader has available to him are not necessarily appetizing alternatives, but, I think, that these are the alternatives that he really is going to have to face. I think that discovery is going to have to be made by the Church, and I cannot see that this is an infringement of any religious right or principle because I am not trying, when I say this, I am

not trying to pre-judge which questions that may be put to Mr. Rader or anybody else who is deposed by the plaintiffs might or might not be objectionable. We are going to get in a few minutes to the motion of the plaintiff for an order compelling further answers to interrogatories. The interrogatories are to Ambassador College Cultural Foundation, Ambassador College and Worldwide Church of God. I think there are thirty questions. As I am sure that you are aware, no question was answered. The objections were propounded, basically, on Constitutional grounds to all of these questions. It does seem to me that these are questions that are appropriate and can and should be answered but, once again, I see no indication on the part of any defendant, any defendant entity to supply any information or afford any discovery.

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The Court:

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• • • If it is necessary to depose Mr. Rader for a period of time longer than that day and a half, it's a matter that either you all have to be able to agree to a time to which that could be continued or you will have to come back and we will discuss it further. The stay on any discovery by the defendants continues in effect until September 21st at which time the court will reconsider that matter. This particular stay extends to any discovery, any other, any pending depositions if there are still any still pending are stayed. The plaintiffs are not required to respond to interrogatories or contentious interrogatories or request for production of documents or any other effort in the way of

Appendix Z—Excerpts From Hearing on Motion for Judgment on the Pleadings and on Stay of Defendants' Discovery

discovery by the defendants until that date, and the matters will be taken up then. I take no position regarding the holding of Mr. Rader in contempt at this time, and I make no contentious order based on his failing to appear and participate, if that is the course of action he decides to pursue, and I most sincerely hopes that he decides to make himself available and to afford some discovery. As to other matters which were considered yesterday and submitted, the motion of Mr. Cornwall, the various motions of Mr. Cornwall and Mr. Helge are denied. The court has taken judicial notice as requested by the defendants in connection with their motion for judgment on the pleading, the motion of judgment on the pleading is denied at this time. As I mentioned earlier, the court has read [63] and considered the plaintiff's motion for an order compelling further responses and the court has considered the objections stated by the defendants and I really am not looking for anything further from you this morning, Mr. Browne on this, unless there is something you wish to say, in addition to what you have offered, with respect to those objections, and I do feel that these are interrogatories that should be answered, and the three named defendants are ordered to answer those interrogatories within thirty days after service of notice of the order. Since there are a number of parties, I beileve, that plaintiff should give notice of all of these rulings. I don't make these rulings lightly. They are reflections of my beliefs and understandings of the issues of the case, and it has been a troubling time for me.

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Excerpts From Hearing on Discovery of Documents From Church

REPORTER'S TRANSCRIPT
August 29, 1979

[13] • • •

Mr. Browne:

• • • Your Honor, we have been saying from the very beginning that the right to control the purse strings of the church is the right to dominate that church, and this court says it for the first time loud and clear. It is impossible to separate the way in which a church spends its money and the practice of that religious doctrine, particularly, in light of what has been said in this case.

The Court: Let me ask you whether the fact that we have not only the Worldwide Church as a defendant here but various other entities, allied entities, and various named defendants here, does that change the situation with respect to the discovery that could be required of the church?

Mr. Browne: Not at all, your Honor. First of all, the other entities apart from the church itself, for the most part are entities that are closely and intimately bound up in the church's religious mission. The Ambassador College exists and subssists for the benefit of the church for the purpose primarily of educating students and preparing them for the ministry. The Ambassador International Cultural Foundation is an entity which has its primary exhibits in cultural matters in the House of God, which is where the people themselves pray, and the Foundation has been used as a vehicle to help propagate the ideas and bring the messages to various people around the world. The various [14] religious educational projects and sub sistence programs and health programs have all been set forth through the Cultural Foundation. If there are in-

dividual defendants that have been called to task, and I want to point out that this is the position that has been taken by the Attorney General in a letter to the State Supreme Court. They have previously taken the position that this action is primarily designated against individuals, not the church, but the problem with that approach, your Honor, is that the thrust of this action, and this court has said it many times, is for an accounting from the church. That's the problem with the way this action is framed. It doesn't seek an accounting primarily from an individual. It's from the church and the motions to take, the production of documents, your Honor, are production of documents by the church and by the Foundation and by the Ambassador College. Those are the three motions before this court, and that's why they fit so perfectly within the Surinach philosophy. Mr. Helge points out, which is true, the Surinach case was directed not only against the church but against the schools of that church, and so that is directly in point with any involvement which the Attorney General in this case may take against Ambassador College. Now, a lot has been said in this case about the fact that all the church has to do is produce the documents, and, if they produce the documents, it's all over. You must be hiding something. And I have given a lot of thought to that, your Honor, because it's a very difficult argument to get around psychologically. Your Honor pointed that out the last time. "Gentlemen, this [15] case could have been over if you just produced it." And there's been a tendency on the part of some people to feel that if you don't disclosure your documents, you must be hiding something terribly bad that you don't want to disclose, and I thought about the analogy of somebody coming to my door or your Honor's door, a

policeman saying, "I want to search everything within your house." And you asked if he has a search warrant and he says no, and you say, "Well, you have to have a search warrant." And he says, "If you have nothing in your house, what difference does it make? Let me look at it." "No, I want a search warrant. That's my Constitutional right." A person could end up losing the right under the Fifth Amendment if everytime he was confronted with a problem,, the other fellow said, "It's obvious. You are guilty. You have got something in there and you are hiding it." That's really what has gone on here. This church does not want to relinquish its rights and the court deals with this in the Surinach case. The court says, specifically, that the effect of the production of documents would be to lose that right, and the court goes on to say that "The subpoenas which generated this controversy sought extremely detailed information about the expenditure of funds of these Catholic schools. If the schools are forced to comply, that information will be subjected to governmental perusal, to public examination, and ultimately may form the basis for significant governmental involvement in their fiscal management. Even if we were able to countenance the degree of entanglement occasioned by the government's involvement in [16] these details of fiscal administration, we could not feel confident that an end to that involvement was in sight." Then the court goes on to the next point which I want to mention, one of the main vices of this whole procedure of gathering information is that it will require a continuing involvement of the government into the fiscal aspects of the church. It's not over. Once they look at the documents, they have a right to continue to monitor what is going on, and that's what the

Attorney General will do in this case. Next year, they will want another audit and they will want to know how much the ministers are being paid now and whether they are in line with their travel expenditures, and whether Mr. Armstrong has given Steuben crystal to the head of one of the governments or some golf balls to King Leopold. It's a continuing monitoring and the court deals with it here. It says, "The Commonwealth would have the ongoing powers necessary to ensure compliance with its orders and regulations, from compelling the keeping of records and the providing of testimony to the continuing inspection of papers and physical facilities. This governmental program thus has the 'self-perpetuating and self-expanding propensities' which have alerted courts to an increased danger of an unconstitutional degree of entanglement." That's the problem here. The Attorney General will have the right to continue to monitor not only the Worldwide Church of God but every other religious organization as long as he wants in perpetuity. You have, basically, a receiver in place perpetually in a religious organization. Now, the sixth point I want to mention, [17] your Honor, which, I think, is so important here, and, I think, it's been lost sight of is that because we, and I mean my clients, have refused on my advice to produce documents because I felt that it would destroy the very right that they were seeking to protect. The burden of persuasion has been in my view implicity or inferentially shifted to us, and, I think, that there is this idea that, "Well, if you won't produce, there maybe something wrong. You are going to have to demonstrate to me that your church is clean." The court here dealt with that issue as to who has the burden. The court says, "Given our conclusion

that the Secretary's demands for the financial data of these schools both burden the free exercise of religion and pose a threat of entanglement between the affairs of church and state, the Commonwealth must show that 'some compelling state interest' justifies that burden, and that there exists no less restrictive or entangling alternative." Now, that is the test the court fashioned and the burden of the attorney, one, a compelling state interest and, two, there exists no less restrictive or entangling alternative. We don't have to show that. The Attorney General does. The court, then, defines what is a compelling state interest. This is the first leg of the test that they have to produce, and, I think, it's very significant as to what the courts in the past have considered to be a sufficient compelling interest to allow the government to intrude into the First Amendment. They cite a series of cases. The first set of cases deals with those situations where it was important to have people to act in [18] the military for the purpose of national security and those cases dealt with your conscientious objectors refusing to bear arms because of an unjust war. Clearly, something that goes to the heart of the ability of this country to defend itself. The second sets of cases dealth with protecting children from physical harm and exploitation. Certainly, we don't have that issue in this case. Particularly, there are some other cases that they cite dealing with the motivation of parents who withhold a blood transfusion based upon religious grounds where the child's life was at stake. And, lastly, they say, and this is very important. This is not a case in which the records of a religious organization are subpoenaed pursuant to a criminal investigation, a situation which the state's interest unquestionably is strong. So there are the

four situations that they have held compelling state interest in the past. Never one involving money, which is what this case is about here. Money never rises to the degree necessary to allow intrusion into the First Amendment. You are dealing with national security. You are dealing with children's lives and you are dealing with criminal cases where there has been criminal conduct. That's it. Now, number two, that's only part of their burden. Even if they could get by a compelling state interest which they can't because this is a money case, the second thing they have got to show is that there is no less intrusive way to handle it. I can't imagine a more intrusive way of getting into the First Amendment than doing what the Attorney General has requested this court to do [19] in this case, order an accounting, change the Board of Directors, allow Mr. Armstrong no free will in deciding who will serve him, appoint a receiver to take care of the church, fashioning injunctions which would prohibit the church from transferring property and giving every member of this church a right to vote even though they join it knowing that it is a hierarchal structure, and that's something that they don't even desire. They have gone about it in just the opposite direction; massive intrusion. Your Honor, it would be our contention that based upon the Surinach case and, supplementally, the court here says with regard to that burden that the department in the Surinach case has "The Department has failed to show that it has pursued its secular objectives in the manner which is least intrusive upon religious concerns. The Department has not satisfied that burden merely by noting that the investigation does not single out religious private schools. It is well established that state action, al-

though neutral on its face, can in practice occasion a substantial infringement on First Amendment freedoms." So the bottom line, your Honor, is that they have not demonstrated a compelling state interest as previously defined. They have not even tried to explore other less intrusive ways of getting their objective. I think, and we dealt with this in the past, if they were to proceed criminally, there are a whole line of cases that permit them to right wrongs that are occurring in religious organizations. But why haven't they gone that route? It's very easy for me to see. Because it [20] would give the defendants an advantage that they don't want to give those defendants. What are those advantages? Number one, the Attorney General would have to prove its case beyond a reasonable doubt. They don't have any evidence let alone prove beyond a reasonable doubt. Number two, the Fifth Amendment would apply much more forcefully in terms of production of documents, search and seizure, the right to require probably cause. Number three, the children would have the right and individuals, particularly, here to confront their accusers. We have played ring around the mulberry bush trying to find out where they have gotten their information and who is giving the information to them. We can't get that in this court. In a crimnal court we could. Number four, we would be able to strike in a criminal proceedings all of the evidence that they have obtained if it were not obtained through proper legal means, and we know and this court knows that the Attorney General has in his possession eight hundred nineteen documents which never came from this church. I don't know where they came from but they came at some point illegally in someone's possession. Everyone of those safe-

guards that would be available to the individual defendant in a criminal proceeding are unavailable so far in this courtroom. And so, your Honor, there is a remedy. The Surinach case requires it, and, I believe, that based upon this authority this court should follow it.

The Court: It's your position that the Surinach case is controlling in this matter?

[21] Mr. Browne: No, the First Circuit Court of Appeals would not be controlling. I recognize that but, I think, that this case is extremely well reasoned. It's one step below the United States Supreme Court, and it is the first case to deal with precisely the questions that have been raised in this court's mind from the beginning. There is not another case like it and there are three judges that decided this case unanimously, so I would say, your Honor, that while it is not controlling, I would think that is is very, very persuasive.

The Court: Thank you, Mr. Brainard.

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Excerpts From Further Hearing on Plaintiffs' Discovery and on Stay of Defendants' Discovery

REPORTER'S TRANSCRIPT

September 21, 1979

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Mr. Browne: Your Honor, I can be very brief about the conversations that I had with Mr. Evans, and your Honor put your finger on it. I anticipated that there was going to be conflicting demands made upon Mr. Evans at his deposition, and I knew that he would be caught in the cross fire between the Attorney General saying produce these documents and our saying that these documents belong to the church; they should not be produced; and with him being in the position of not knowing what to do. So my advice to him was get a lawyer; have him appear with him or if the lawyer didn't have adequate opportunity to be there since it was the following day, call Mr. Brainard and ask for a continuance. Now, I think, that was entirely appropriate, and I will stand on the record insofar as that is concerned. I don't think that it need be argued. Certainly, I did not intimidate him or intend to intimidated him or threaten him in any way, and I would not do such a thing. Now, let's talk about a little [12] bit about the production of documents by Mr. Evans and the production of documents generally because this has a common thread through out the Rader and Cornwall requests to produce as well. Your Honor, the Worldwide Church of God has a two-fold commission and they are very simple. One, is to preach the gospel of the Kingdom of God in all the world as a witness to all nations, and the second thing is to develop righteous character in

those who have been called to the spiritual body of Christ. I think it's a matter of common knowledge and this court can take judicial notice of the fact that of the last couple of days there probably have been a thousand members of the Worldwide Church of God peacefully letting this court know in front of the courthouse and in this courtroom I am told, although I wasn't here yesterday that they are concerned, and I don't know ninety-nine per cent of the people out here. I see faces. I have only spoken to as many as I could talk to, and I have asked them, "Why are you here?" I certainly have not called them and they all tell me one thing, and they say, "This is our church." And they say that they know about the complaint and the allegations which are rather ugly on their face, but they know about them. They know that there are all kinds of accusations that their officers have been spending money and stealing it and pilfering it and siphoning it off, but they want the court to know—even though these allegations have been made—that they want the state to leave their church and their leaders alone. They want the court to know that these members who are of all ages . . . I have seen children [13] and students and people in their middle age and senior citizens, and, I think, you can take a look at them, and you can tell that they are sincere and they are law abiding, and they are intelligent, and they want the state to know, this court, that they approve of the commission of this church, and they want the court to further know that they approve of the way that the commission has been implemented by their leaders. They want this court to know that Mr. Armstrong has led this church and them and their chil-

dren and their parents for forty-six years, and they want him to continue leading this church, and they want this court to know that Mr. Armstrong has selected leaders to help him like Mr. Rader and others, and they approve of these selections, and they also want this court to know that their tithes which they worked for, the Attorney General doesn't work for these tithes, they do. They want this court to know that for the past forty-six years Mr. Armstrong has been directing as to how they are to be spent, and they want that direction to continue. They tell me that they don't need the state to tell their leaders how to serve God. They tell me that they don't want the state and this court in its ultimate wisdom to change around their structure and say that their members should have a right to vote. They tell me that Catholics don't vote on every single item of expense of a church, and they say that there is nothing anti-religious about the members not voting, and they say that they don't want a new Board of Directors, and they don't want a receiver telling them from the state how to spend their tithes. They tell me that they are not [14] wards of this court. They find it degrading to have the State Attorneys General, these young gentlemen here, stand up and say that these members are wards of the court, and it is their job to protect them. Your Honor, these people tell me that they are law abiding, and I believe it because I see them. They tell me that they are religious and I believe that, too, and I believe that they are sincere, and that they are intelligent and of sound mind. They also tell me, your Honor, that those who don't like the ugly allegations of the complaint or believe that they are true can leave the church. Many

have. Many have not and that those who wish to join another church may do so. They feel they tell me that they don't have to do at this time. They tell me that if they are desirous of not tithing, they can go somewhere else. It's a voluntary act. They are not under any contract or compulsion to do so and if the state says, "We think that your leaders have done such and such." and they still want to tithe, they still have that privilege. That's what they tell me. Now, your Honor, I don't think one must be a legal scholar to listen to this and realize something is terribly, terribly wrong. It is contrary to reason to tell these people who are bright and able to spend the money they want and who are not conservatees of this court, that they have no choice in this matter. It is wrong to tell them that they have no right voluntarily to give, and I say, your Honor, that the onslaught on this church and these members must be halted. Now, you can take all of these facts and wrap them up in any kind of a legal argument you want, and we have made all of [15] those legal arguments . . . I don't even think the legal arguments are important when you get down to this basic gut level. There is something wrong with the system if these three gentlemen feel in their ultimate wisdom that they can convince you or another judge that these religious people cannot spend their money by giving to their religious leaders, and allowing the religious leaders to use those monies for further religious purposes, even though the state Attorney General in his wisdom or your Honor may feel that that is foolish. They have that privilege and I cannot argue with these members when they say that. That's why they are here. Now, we have

cited other cases to the court in the past and I am not going to go over those cases but let it be sufficient to say that Rhode Island and New Hampshire and Maine and Massachusetts all look at this situation and say that this court is wrong. That's the Surinach case. We cited the International Society of Krishna Consciousness, and that's Illinois, Wisconsin and Indiana and they say that this court is wrong, and, your Honor, I found two additional cases, which I want to give to the court. They are not in our brief, and I would like the court to have these. The cite on this and there are two cases . . . we now have North Carolina and Texas saying that this court is wrong, and the first case is the Heritage Village Church vs. the State of North Carolina. Their Attorney General, who fell to defeat, his name is Rufus L. Edmisten, not Deukmejian but Edmisten, and I would like to lodge this case.

Mr. Brainard: May we request—

[16] Mr. Browne: Let me give you the cite. The cite is 40 N.C.App, 429 and it was decided in 1979, in April of this year. It's a lengthy case and I am just going to take a few minutes to summarize, and the court after the hearing today can take a look at it, but this case has four major points which tell me and I think will tell this court that it is out of step when it tells these people that they can't conduct their religion the way they wish. Number one, the facts arose very simply in this North Carolina case. There was a regulation issued by the Secretary of the Department of Human Resources which said that the Secretary could revoke and suspend the license of any religious organization to solicit funds if they found that a reasonable percentage of the contributions were not being applied to

Appendix Z—Excerpts From Further Hearing on Plaintiffs' Discovery and on Stay of Defendants' Discovery

a religious purpose. So, for example, if they were using the funds in what the Attorney General considered in a non-religious way, he had a right to say, "You can't solicit from the members of the public because it would be a fraud." Now, the importance of this case, and I think the analogy is so obvious . . . it almost needn't be stated but, obviously, that's what the Attorney General in our case is doing. They are saying, "These are non-religious expenditures of funds. You can't travel and do the things that you are doing even though they are part of your commission." We don't interpret their commission that way, and the court says in this North Carolina case, and I am quoting on page four forty-two, the Section "Allous the Secretary to withhold his approval of a license if he determines the purpose for which the money is expended is [17] not a religious one. This exercise of discretion constitutes a prior restraint on the exercise of religion and violates the First and Fourteenth Amendments of the United States Constitution and Sections 13 and 19 of Article I of our State Constitution." And what do they cite, your Honor? A case we cited many times . . . the Cantwell case and also the Society for Krishna Consciousness, which is the Seventh Circuit case covering Illinois, Indiana and Wisconsin, and, then, they go on to say that, "Defendants' contention that the Secretary's discretion is subject to judicial correction in an administrative hearing does not remedy the evil." So that is the first of the four points I want to make. The Attorney General does not have the right to decide what is or is not religious. That's a fundamental invasion of the First Amendment. The next thing that the North Carolina court agrees with and the other

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ten states that I have talked about is the very simple concept that we have mentioned before. If I didn't mention it, the prior quote was on four forty-two. The next is four forty-nine and it says, "The Solicitation of Charitable Funds Act . . ." that's the act on test in North Carolina, "seeks to protect the public from fraudulent practices in solicitation. Less intrusive means are available." That's a point that we have been making all along that the state Attorney General from California cannot take this massive approach of restructuring a church to remedy an evil that it claims exists. Number three, and this is, perhaps, the most critical. I commend the North Carolina court for making a distinction that I have been trying [18] to make for a long time and that is that this is not a Boy Scouts of America case. This is not a muscular dystrophy case. This involves freedom of religion. Those other non-profit corporations do not have the First Amendment protection. And listen to what the court says about that. It analyzes the case, and, then, it goes on to comment and it says, "In National Foundation, supra, . . ." that's the case it just analyzed . . . "the plaintiff was a nonprofit organization. In the case before us, plaintiffs are religious organizations." The words religious organizations are italicized. "We believe that this is a distinction worth noting. An activity when engaged in may be secular or religious depending on the circumstances. This distinction is oftentimes vital for constitutional purposes." And that's the point that we have been making. If the Attorney General feels that there is wrong doing in the Boy Scouts of America, he has far greater lattitude than he does if he thinks there is wrong doing in a religious

corporation which is what we are dealing with here. And the last point I want to make about this North Carolina case is that putting any limit on spending, which is what these members are here about today hampers First Amendment rights, and that's what the Attorney General wishes to do. Limit the spending. Listen to this quote. This is on page four fifty-one. Incidentally, the previous quote was at page four fifty, the distinction between a non-profit and a religious organization. At four fifty-one the court says, "As in Buckley, supra, plaintiffs are exercising rights protected by the First Amendment. Limiting the amounts [19] of money expendable seriously hampers plaintiffs' ability to effectively exercise their First Amendment freedoms. The limitations are unduly burdensome and thus violative of the First Amendment. See Cantwell . . ." our old friend "supra." Now, then this case is, then, added to the other cases that we have cited before, and I wish to also enlighten the court with the Texas case that I promised that has the very same principle at stake. This is a United States District Court case in Texas and it is cited at 465 F.Supp. 493 (1979), decided in 1979, January 30th. I think it's impressive to me, your Honor, that for a period of one or two decades the First Amendment, basically, stayed much the same in terms of the judicial interpretations. Most of the cases we rely upon are in the late sixties and early seventies, and, then, there was a period of time when the public and the courts were digesting these cases, and I just, as a note and not an argument, think it is interesting that there are a flock of new cases coming down in 1979 throughout the whole country in this area, and from the United States Supreme Court, and it

is obvious that there are a great number of people that are upset by this broad state intrusive action. This case that is from Texas is Fernandes, F-e-r-n-a-n-d-e-s vs. Limmer, L-i-m-m-e-r, and I would like to lodge a copy of this case with the court. Now with that background and upon which, I think, the motions for production of documents on the part of Mr. Evans, on the part of Mr. Rader and Mr. Cornwall should be denied in their entirety, and that argument that I have just made goes across the boards. I [20] would like to move on, specifically, to some of the objectionable items apart from the constitutional points that, I think, are wrong and offensive. In the production of documents for Mr. Rader and Mr. Cornwall, one of the things that they asked for were W2 income tax forms, and I am literally horrified that the State Attorney General has become so enboldened by this case that they would make that request in light of a California Supreme Court case entitled Brown vs. Superior Court where that court held clearly and unequivocably . . . we cited in our brief . . . that income tax returns and all documents appended to those returns, including W2 forms, are absolutely privilegd. The arroganze of raw power requesting a document like that, I find in light of this case and a long line of precedents quite shocking. They have also asked for books and records of the law firm of Rader, Helge and Gerson and its clients' list. If those clients' lists and books and records were given up, your Honor, there would be a complete breach on the part of these attorneys to protect themselves. It's not any secret that the Attorney General invaded the law offices of Kaplan, Livingston, Goodwin, Berkowitz and Selvin, and a restraining

order was issued against them from doing so by Judge Pacht, and, I think, this attempt to get books and records and clients' lists of a law firm is absolutely reprehensible. They are also seeking the books and records and client lists of the accounting firm of Rader, Cornwall, Kessler and Palazzo. Another wrong intrusive method of seeking discovery. I have the feeling, your Honor, that the Attorney General thinks it [21] can walk into this courtroom and ask for anything at this point. Now, there's another reason why none of these documents should be produced at all, and this is the case that is not in the brief. I came across it last night, and it is the case of Salwasser, and I will give the court a copy of this opinion, S-a-l-w-a-s-s-e-r Manufacturing Co. vs. Municipal Court for the Fresno Judicial District, and at 94 Cal App 3d 223, and it was decided June 18, 1979. Your Honor, the Salwasser case is a point that hasn't been raised to date, specifically, and which, I think, is absolutely controlling in this matter. In Salwasser there was a warrant issued by OSHA, California Occupational Safety and Health Act. I am sure your Honor is familiar with it and it was a warrant permitting the inspection of a place of business on a routine safety check to determine whether the business was in compliance with OSHA's standards for workmen's safety. The warrant was issued without a showing of probable cause, and there was a belief and nothing more that, perhaps, there was a safety violation which existed on the premises. The court points out in this case that a violation of the OSHA Act could result in a misdemeanor, not a felony, but simply a misdemeanor, and there might be criminal sanctions involved in the event that they did

inspect the premises, and the premises were found to be wanting in compliance to the Act, and so the court decided that under the Fourth Amendment the requirement for search and seizure, that a mandate of probable cause had to be first proven before they could inspect the premises of this business, and the court states that in [22] "In short . . ." and I am quoting from the case, "In short, once it is recognized that investigators making a Cal/OSHA inspection are seeking evidence of serious violations punishable as misdemeanors, the constitutional consequences follow, as night follows days." And the constitutional consequences that the court was referring to was that any such warrant required a showing of probable cause. Let's examine that case in terms of the application to the case at bar. In the case at bar the entire complaint is virtually based upon information and belief. There is certainly no showing of probable cause. All of the allegations are general. We deal with pilfering, siphoning, stealing, sales below market values and most of those allegations have been disproven and rejected by Judge Title, including sales below fair market value, destruction of documents, sale of Big Sandy campus for less dollars than it is worth, and yet all of these allegations involve six potential felonies which are part and parcel of that complaint. This court knows the Attorney General has possession and has had possession for a long period of time of some eight hundred nineteen documents of the church going from financial statements to tax returns, to accountant's work papers, tracing every dollar in and out for some twenty years, and in the name of protecting the church the Attorney General through its receiver has spent

one hundred fifty thousand dollars of these church members' funds and asks for approval of two hundred fifty thousand dollars during the term of the receivership which lasted six short weeks, and they have thirty thousand dollars they want for Paet, [23] Marwick and Mitchell. All to protect the church. It reminds me of the story where the surgery is successful and the patient dies, and yet there is still no showing of probable cause to get any of these documents. The point here, your Honor, is that, I think, the Salwasser case is absolutely controlling; that it requires the Attorney General to show probable cause for the production of any of these documents whether they be in the possession of Mr. Rader, Mr. Cornwall or Mr. Evans, and that there has been absolutely no attempt to make any such showing, and I would like to lodge this case with the court for its examination. Now, let me move on to another ground, which, I believe, is controlling in this situation. The Attorney General takes the position inconsistently on the one hand that 9505 gives it the power to examine a non-profitable charitable corporation but, on the other hand, in its request for production of documents asks for documents of Worldwide Advertising. That's not a non-profit corporation. Never has been. Gateway Publishing, that's not a non-profit corporation. Excelsior Services and Mid-Atlantic Leasing, all of these entities are not non-profit. So if the Attorney General is going to say that they have the right to examine the affairs of a non-profit corporation with which we disagree with in terms of a religious corporation, but assuming, arguendo, they are correct, what business or right do they have to get into the boxes and records under that section of private cor-

porations? This is clearly an invasion of the right of privacy under our California Constitution, Article I, Section 1, and under Wright vs. Davis, "governmental [24] snooping" which that section's constitutional provision was enacted to prohibit, and that's the word, those are the words of Wright vs. Davis "governmental snooping". Referring to Mr. Evans' documents, the documents in his possession, I simply point out to the court that he was an employee from 1956 to 1958, and under Labor Code Section 2860 which I have written about and lectured about to lawyers up and down the state, that section provides very simply that all materials, all labors, all products of an employee, except his compensation, during the period of time that he is working for an employer, belong to an employer and the cases are legend that that section means what it says, and the point is what the ATtorney General is trying to get at are documents that he acquired during his tenure as an employee that belong to the church.

The Court: Wasn't he a real estate broker?

Mr. Browne: Yes, he was also an employee during that period, your Honor. I don't believe that an employee can take documents and say that . . . while he is acting for the church, mind you . . . in other words, they are not asking for documents that had to do with independent transactions which were part, which were not part of the church's operations of business. They are asking for church documents in his possession. Now, if they were to ask for broker's statements and documents which he obtained between L. C. White and Joseph Black, which had nothing to do with the church, I suppose, there would be a different issue but they are asking for our documents,

and I say that under Labor Code [25] 2860 they must be returned to the church, and that point the issue can be joined as to whether the state is entitled to them. It's a violation of the due process clause of our state and federal constitution if those documents are permitted to be taken by the state without first returning them to the church and giving the church an opportunity to be heard. Lastly, I want to address myself just for a minute or two on the issue of the stay of discovery which is to be lifted today we hope. It's very clear to me, your Honor, that the stay and ban of our discovery was for one purpose and one purpose alone, and that was to punish all of the defendants because Mr. Rader did not appear for his deposition, because he was pursuing an appellate remedy calling this court's order into question. I realize that this court has the responsibility in carrying out its orders but I also believe that if the court is so jealous of its jurisdiction that it creates a penalty for the other people that I represent because one of them goes up on appeal questioning this court's order—

The Court: Let's don't spent a lot of time on this because you really will run on the ragged edge if you do. You have spent weeks and months maintaining a position, and I know that you do it in good faith or, at least, I believe it, and that's close to knowing it, and you have put in the way of the plaintiff every road block you can envision, . . .

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Mr. Brainard: All right, I previously referred to the fact that the defendants, and we are not just talking about

Mr. Rader's refusal to make discovery, we are talking about all the defendants' refusal to make discovery. We are talking about the complete disregard of this court's [31] orders and the motions or the orders that I referred to earlier, the ones compelling production of documents, the one compelling answers of interrogatories, the orders of Mr. Helge and Mr. Rader and Mr. Cornwall's depositions were not directed at Mr. Rader. In fact, it is just evidence of a concerted and combined effort to avoid discovery. I believe that it would be appropriate to continue the protective order, staying the depositions of the defendants until Mr. Rader's deposition is completed. We are in a very difficult position or posture in this case, your Honor. We request discovery. The defendant objects. We make a motion to compel. The court orders them to comply with the discovery orders and the defendants simply say, "No, we are seeking a writ." And they seek a writ and the days pass and we are back in court again. I am not sure the court wants us to come back here every twenty or thirty days asking for new dates.

The Court: It's a little awkward every twenty or thirty days.

Mr. Brainard: Unfortunately. Right now we have, not including Mr. Rader's deposition, I believe we have four matters which have not been complied with, four orders of this court which have not been complied with by the defendants, and the dates of compliance have already passed or just passed in the last week or so or will pass. One is next Tuesday and it already has been indicated to us that compliance will not be had. I want to, perhaps, as the court's indulgence by asking for some instructions on

how your Honor wants us to proceed with those matters. I hate to [32] keep coming back to the court and asking for new dates when we know that they are not going to comply with in any event. At the same time we have a situation where without a set date there is no compulsion by the defendants to even go forward with their appeals on this matter.

The Court: I haven't really been of the opinion that the defendants were being dilatory in prosecuting their appeals. I think they are going forward fairly rapidly. I am going to continue the stay on any discovery by the defendants to a date certain just as a matter of convenience, and this time I will try to remember it, and I am sure you will remind me. I wouldn't propose to put it necessarily until Mr. Rader's deposition is completed because, first, I don't know how long it will take to depose him. We have had conversations about this in the past, and it may well be that some of the information will be elicited from Mr. Rader at the earliest part of his deposition so that some discovery will have been had, and it would be fair and proper to resume discovery proceedings. It may very well be that some higher court will straighten us all out on this in the meantime, but the stay is continued to November 26th.

Mr. Browne: Perhaps, we will have something to be thankful for on that day besides our turkey.

The Court: Well, that might be.

Mr. Helge: Your Honor, may I ask clarification of that? You used the word defendant.

The Court: Defendants.

Mr. Helge: That's what I mean.

[33] The Court: I am just not enunciating very well.

Mr. Helge: Is the court saying that that prevents myself from moving for discovery against the state?

The Court: My current thinking is that any discovery by defendants would be stayed until November 26th, which is a Monday.

Mr. Helge: May I address that for a moment, please?

The Court: Go ahead.

Mr. Helge: As a practical matter here, your Honor, you know I have been accused again in the complaint of pilfering millions. I am a defendant. I am a victim. Charges have been brought against me in a very, very vague fashion, your Honor. They have said that I have stolen money. Now, your Honor, I have come in on a summary judgment and denied those matters. The state has come forth with nothing under oath. Now, your Honor, if I am going to respond, how can I possibly respond to that unless I come in and lay out my entire life to show that at no time in my life, my twenty-five years in serving the church have I ever stolen millions.

The Court: Mr. Helge, excuse me for cutting you short, but I just don't think it's going to be a profitable discussion. I would say that any defendant who makes discovery here would be in a position to ask the court to reconsider the order as it might relate to him. I haven't seen any defendant make any discovery yet in this case, and that really is the basis of my thinking, and I appreciate the fact that it may seem arbitrary but I do, I do make that order at this time.

[34] Mr. Helge: Your Honor don't we have to look at the law? Does not there have to be annoyance, oppres-

Appendix Z—Excerpts From Further Hearing on Plaintiffs' Discovery and on Stay of Defendants' Discovery

sion and embarrassment? I have no facts against me to say I have annoyed or oppressed or embarrassed the Attorney General, save of bringing out facts that are wrongful conduct. What good cause is there of record to prevent me from under the law as it stands to come forth under even the fundamental concepts of due process to show my innocence. Why am I being deprived of that right? What facts are there of record?

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Excerpts From Hearing on Continuation of Defendants' Discovery

REPORTER'S TRANSCRIPT

November 26, 1979

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[6] • • •

The Court: Yes, those are the Bunner documents. The plaintiff's motion with respect to the Cornwall and Rader for production of documents and what not are then what?

Mr. Brainard: You ruled on those on the twenty-first of September, your Honor.

The Court: But, in effect, they are stayed pending or are they?

Mr. Cordi: No, they are not. The only thing that is stayed is Rader's deposition.

The Court: The file is in disarray as you can tell at this moment. I have not been able to locate the copies of the original minute order.

Mr. Browne: One point, as far as Mr. Rader is required to produce any documents at his deposition, since the deposition was stayed by the Ninth Circuit, it would be our contention that his not being required to appear, would also stay the requirement of his producing any documents until the deposition is resumed, but, I suppose, that's an interpretation the Ninth Circuit will have to deal with.

The Court: I would think so.

Mr. Brainard: Your Honor, the defendants have complied with none of the discovery orders.

The Court: All right, I hadn't seen any flags or rockets, I didn't think that anything else had happened. [7] All right, gentlemen, I am clear on what the situation is and, well, then, the only matter that's really pending at this

time is the matter that is under submission, which has to do with the seven thousand documents.

Mr. Browne: The only other point, your Honor is whether the court today is going to continue its stay of all the defendants' discovery.

Mr. Brainard: Yes, your Honor, the stay order of today was the day the stay order was to run out.

The Court: I don't see any reason not to continue that until we have some further information about what direction we are going to get, if any, from the federal side.

Mr. Browne: The only other thing I would request, your Honor, it is true that Mr. Helge served a set of interrogatories on the Attorney General, and I would feel much more comfortable if your Honor could allow Mr. Helge to argue that matter. He feels passionately about his cause and I don't want to take away any of the thunder that he may have there so as an accommodation—

The Court: What an unfortunate expression but how apt. I certainly feel that in view of the impasse on discovery, it would be unlikely that I would not continue the stay. I know Mr. Helge likes to have his day in court on this.

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Appendix Z-1

Declaration of Hillel Chodos

I, Hillel Chodos, hereby declare as follows:

1. I am one of the attorneys for the People of the State of California, plaintiff in the within action. I make this declaration in support of an application for an award of attorneys' fees to be paid to me and the other private counsel who have represented the People in this matter, out of the funds of the charitable corporations for whose benefit this action was commenced.

2. I was admitted to the California Bar in January of 1962, and am currently admitted to practice in the California courts and in various federal courts, including the Supreme Court of the United States. My practice has always consisted principally of complex and unusual litigation in both state and federal courts, at both the trial and appellate levels.

3. Most of the matters that I handle are business controversies, usually involving amounts of several million dollars.

4. While I occasionally handle matters on a contingency-fee basis, most of my professional activities are regularly billed and paid for by my clients on a monthly fee-for-service basis, based on time spent. In this regard, although I have always refrained from maintaining daily time records, my customary fee agreement is that I will be paid for my time at $200.00 per hour; and I am currently receiving fees on that basis from numerous clients. In this regard, I have explained to each of my clients that, while I

do not maintain daily time records, I regularly compute the time spent at the end of each month, based on a review of my calendar and my file, and my recollection of what was done and what time I spent. In each instance, my arrangement with my clients is that the transmission and payment of a bill at the end of any month will constitute an account stated between us for all services rendered through the closing date of the billing.

5. In the summer of 1978, I was contacted by Peter S. Pearlman, Esq., a partner in the New Jersey law firm of Cohen & Lifland. Although Mr. Pearlman and I had never met, we have become acquainted professionally through our mutual involvement in certain stockholder class actions arising out of an attempt by Bourns, Inc. (a California corporation) to squeeze out its public shareholders at a price per share substantially below book value.

6. Mr. Pearlman told me that he had been contacted by several members of the Worldwide Church of God resident in New Jersey who had information indicating a substantial likelihood of gross malfeasance and misfeasance on the part of officials of the Worldwide Church of God, Inc. and its related entities. He inquired whether I would be willing to file a California lawsuit based on this information. I told Mr. Pearlman I would look into it, and get back to him.

7. For several months, the press of other matters I was handling was such as to prevent me from devoting more than a few hours to Mr. Pearlman's inquiry. I did ascertain, however, that individual church members, even though they may have been very large contributors, did not have

standing individually to bring or maintain actions based on mismanagement of charitable funds. On the contrary, under established principles of California law, their sole remedy would be to bring their charges to the attention of the Attorney General in his official capacity as a representative of the State in its role as parens patriae, and persuade the Attorney General to take such action (or authorize them and me to take such action in the name and on behalf of the People as might be warranted. I therefore contacted Lawrence R. Tapper, Esq., the Deputy Attorney General handling charitable trust enforcement litigation in Southern California. I had had conversations with Mr. Tapper on various occasions over the years because many of the lawsuits that I handled involved the interests of charitable trusts or foundations under his supervision. Mr. Tapper told me that, before the Attorney General could make any determination what action, if any, to take in the matter, it would be necessary for a complete summary of the claims of improper trust management to be organized and presented to the Attorney General's office. Mr. Tapper sent me a copy of the provisions of the Administrative Code relating to applications for "leave to sue," and the granting of relator status.

8. After additional conversations with Mr. Pearlman and Mr. Tapper, I undertook to meet and to speak with various Church members claiming to have information concerning improper management of charitable trust funds and assets by the persons in charge of the Worldwide Church of God and its associate corporations, including particularly Messrs. Herbert W. Armstrong and Stanley R. Rader. These people furnished me information showing, among

other things, that the Church and its associated corporations had assets in the vicinity of $80,000,000; that they had annual receipts in the vicinity of $70,000,000; and that they were represented by counsel and controlled a large and tightly-knit organization. The persons who agreed to serve as relators or declarants in support of an application to the Attorney General, or an ultimate application to the courts, advised me that they simply did not have the means even to advance—let alone to pay for—the legal services that I told them would probably be required in order to have proceedings instituted to review and correct any mismanagement of charitable funds by the persons in charge of the Church and its associated companies.

9. Ultimately, I became convinced that the information and evidence in the hands of my informants were adequate to justify a formal presentation to the Attorney General, and thereafter to justify the granting of appropriate relief by the courts. I therefore discussed the matter again with Mr. Tapper, summarizing for him the information I had received. Copies of much of the documentary material were furnished to Mr. Tapper for his perusal.

10. Mr. Tapper and I then discussed what procedures would be appropriate in order to bring the alleged improprieties to the attention of the Court, and what relief should be sought. After considerable discussion and review of the pertinent authorities, I suggested to Mr. Tapper that the most appropriate procedure would be to sue to compel the charitable corporations to render an independent and reliable accounting of their affairs in recent years, since no such accounting had ever been rendered,

and since the Attorney General and the courts were entitled to such an accounting as a matter of right. We further discussed that, in view of the fact that the Church and its associated corporations had never actually been governed by an independent board of directors or trustees, it would be necessary to seek a judgment directing that a proper board of directors or trustees be selected to oversee the management of the financial affairs of the Church and its related corporations in the future. Further, as remedies ancillary to the request for accounting, Mr. Tapper and I discussed that the Court should be asked to appoint a receiver *pendente lite* to serve, in effect, as a substitute trustee for the purpose of obtaining the accounting, and that suitable powers should be sought for the receiver, and suitable injunctions obtained, in order to permit him to conduct whatever activities were necessary in order to preserve and protect the assets and obtain the requisite accounting. Finally, we discussed the fact that *ex parte* relief would have to be requested without notice, because of what appeared to us to be a substantial risk that assets would be taken and records would be removed, altered, or destroyed by the defendants if advance notice were given.

11. Among other things, Mr. Tapper and I discussed the fact that the Attorney General had limited staff and resources available with which to discharge his statutory and legal responsibility of supervising charitable and non-profit corporations. In essence, Mr. Tapper explained to me that there were five deputies available to supervise approximately 50,000 non-profit corporations, including but not limited to churches, hospitals, educational institutions, and foundations. Mr. Tapper told me that the Attorney Gen-

eral simply did not have the legal or accounting staff available to conduct an accounting at public expense through the medium of adversary litigation procedures of an organization as large and ramified as the Worldwide Church of God and its associated corporations. He therefore explained to me that it would be a condition of the Attorney General's decision to pursue the matter that I would undertake to furnish all legal services required in order to file the lawsuit, obtain the appointment of a receiver *pendente lite,* and protect any order granting a receivership from attack in the appellate courts or the federal courts; and upon my further undertaking that I would look only to an award from the Court out of the funds and assets of the Church and its associated corporations for compensation. As further conditions, Mr. Tapper told me that I would have to comply with all applicable provisions of Title 11 of the Administrative Code, including particularly:

(a) That I would have to prepare and present, for review and ultimate signature by the Attorney General, a complete set of proposed pleadings, including any papers required in order to obtain provisional relief; and

(b) That I file the $500.00 bond required by the regulations.

12. Mr. Tapper indicated that, if these conditions were satisfied, and if the filing and maintenance of the suit were approved by the Attorney General's office, I would have to bear the brunt of all court proceedings pertaining to the establishment and maintenance of the receivership, although he contemplated that he might participate in and

attend such proceedings as his own schedule and other official commitments would permit.

13. I am and always have been a sole practitioner. I have no law partners, and I do not have and have never had any lawyers or law clerks in my employ. At the time of my discussions with Mr. Tapper, my time was heavily committed to other litigated matters in the trial and appellate courts. I recognized that, while Mr. Pearlman and his firm were performing essential services in collecting and transmitting to me essential information necessary for the litigation through their informants in New Jersey, they would not be able to provide meaningful assistance in the preparation of court papers and the handling of court hearings in the California courts. I therefore solicited the assistance and cooperation of two younger lawyers: Hugh John Gibson, Esq., who rents an office in the suite which I occupy; and Rafael Chodos, Esq., my younger brother, who was admitted to the Bar about eighteen months ago, and who rents an office from another lawyer in my building, in a suite adjacent to mine. Neither Mr. Gibson nor my brother Rafael is associated or connected with me in the practice of law in any way. They did agree, however, to assist me in this particular matter on the understanding that they, like me, would look exclusively to the Court to award them compensation for their services out of the charitable fund for whose protection the receivership was to be sought and maintained.

14. During the month of December, Messrs. Gibson, Rafael Chodos, and I spent many hours reviewing documents furnished by the proposed relators, interviewing witnesses,

and drafting and preparing the complaint and the *ex parte* application for temporary receivership, temporary restraining order, and injunctive relief, which were ultimately filed with this Court on January 2. During the same period, we also conferred and consulted with Messrs. Pearlman and Hermann in order to obtain such information as they had collected from their information sources.

15. The pleadings were ultimately put in final form by December 28, 1978. On December 29, 1978, Mr. Gibson and I met with Mr. Tapper at his office on Wilshire Blvd. to submit multiple copies of the proposed pleadings for his review and approval. At the same time, I also supplied to the Attorney General a $500 cashier's check (the funds for which I personally supplied) in lieu of the cost bond required of relators under Title 11 of the Administrative Code. Mr. Gibson and I spent most of the morning explaining and discussing the papers with Mr. Tapper. He then requested that we leave the papers with him so that he could consider them further, and discuss them with other persons in the office of the Attorney General. Ultimately, Mr. Tapper advised me that the Attorney General would approve the filing of the action and grant formal leave to sue; but by that time, it was too late in the day to file the papers or to seek the *ex parte* orders. Accordingly, a determination was made to postpone the filing of the action until the next available court day, January 2, 1979.

16. On the morning of January 2, 1979, I contacted the Clerk in Department 85, indicating that I intended to appear later that day to seek an *ex parte* receivership, temporary restraining order, and order to show cause re

preliminary injunction. I explained to the Clerk that the circumstances were such that I did not intend to give any notice whatever to the proposed defendants, because I feared that the giving of such notice would cause irreparable injury. The Clerk then put me through to Judge Pacht, who had just been assigned to the Writs and Receivers Department from the Appellate Department. I was and am acquainted with Judge Pacht through various professional contacts I have had with him over the years. I spoke to Judge Pacht for less than two minutes, explaining the general nature of my proposed request, and indicating that I wished to obtain *ex parte* orders without giving notice to the defendants. Judge Pacht told me that he would be available to consider the request at 2:00 p.m., and then inquired whether the moving papers were voluminous. When I told him they were quite lengthy, he requested that I send a copy down by messenger that morning, so that he would have a chance to review them before I arrived; I complied with this request.

17. Meanwhile, I had made certain tentative inquiries of the Honorable Steven S. Weisman, a retired judge of the Superior Court, asking whether he would be willing to serve as a receiver if the Court were to appoint him. I outlined the general nature of the allegations and what I believed the task of the receiver would be. Judge Weisman told me that he would probably be willing to serve as receiver. At the same time that I furnished copies of the proposed pleadings to Mr. Tapper, I also furnished Judge Weisman with a complete set, so that he would have an opportunity to familiarize himself with all of the allegations and with the proposed receivership order. After

learning from Mr. Tapper on December 29 that the Attorney General would approve the filing of the lawsuit in the name and on behalf of the people, I notified Judge Weisman and requested that he accompany Mr. Tapper and me to court when the action was filed and the *ex parte* application presented. On the morning of January 2, I called Judge Weisman again, and arranged for him to come to Department 85 with me and Mr. Tapper at 2:00 p.m.

18. On the afternoon of January 2, the *ex parte* application was presented to Judge Pacht, the action was filed, Judge Weisman was appointed as receiver, and he qualified by signing the oath and filing his bond.

19. Judge Weisman does not employ any lawyers or other staff, except a part-time secretary. In order to discharge his duties as receiver, he appointed me and Messrs. Gibson and Rafael Chodos to assist him in collecting documents which he had been ordered to take into his possession. On the morning of January 3, Mr. Gibson and I, accompanied by an agent from the Department of Justice, went to the offices of Rader, Cornwall, Kessler & Palazzo and Worldwide Advertising in Century City. Copies of the summons and complaint were served on Mr. Kessler, and arrangements were made to have several file drawers of accounting records in his possession and relating to the charitable corporations copied by Beverly Hills Blueprint. Service was also made on Worldwide Advertising, and Mr. Gibson collected certain documents pertaining to the affairs of the charitable corporations (including executive payroll) from those offices.

20. Meanwhile, Judge Weisman and Rafael Chodos had gone to the offices of the charitable corporations in Pasadena, accompanied by other agents of the Department of Justice, in an attempt to take possession of records in accordance with the order. I joined them in Pasadena later in the day. Considerable difficulties were encountered in collecting these records, which occasioned further attendance by Mr. Chodos, Mr. Gibson, and myself at the Pasadena offices on January 3 and January 4. Ultimately, Judge Weisman employed Michael J. Clemens, Esq. to assist him, and Mr. Gibson, Rafael Chodos, and I did not undertake to provide any further assistance to the receiver.

21. On January 4, I was notified that the defendants had employed Allan Browne and Ervin, Cohen & Jessup to represent them in this matter. The first adversary court appearance took place on the afternoon of January 4, when Mr. Browne presented an *ex parte* application to vacate the receivership, and filed a peremptory challenge to Judge Pacht. Since that time, there have been numerous court hearings and court proceedings had in this matter, all as reflected in the Court's file.

22. Mr. Gibson and Rafael Chodos continued to assist me in preparing for and conducting the three-day hearing which took place before Judge Title in Department 3 on January 10, 11, and 12; and they also provided some assistance with matters occurring after that hearing. By and large, however I have personally handled most litigation matters associated with this lawsuit since January 2. I have personally attended virtually every court hearing and responded to virtually motion and *ex parte* application for

relief made by defendants in this case. I have personally drafted and prepared every court paper filed by plaintiff in this action.

23. In addition, I have personally prepared all papers filed on behalf of the People in the Court of Appeal, successfully defending against the defendants' applications for prerogative writs and stay orders. Finally, although I consider myself disqualified from appearing in the Supreme Court of the State of California (because I am a member of the Commission of Judicial Performance, which has undertaken to investigate various charges of misconduct recently asserted against members of that Court), I consulted extensively with Mr. Tapper concerning the content of papers to be filed in the Supreme Court in opposition to the defendants' petition for hearing and request for stay.

24. In addition, I personally prepared and conducted the defense of the State of California in a federal suit filed by the defendants in Los Angeles to terminate the receivership. I personally appeared in court and argued the matter before Judge Firth, and drafted every responsive paper except one motion to dismiss, which was drafted by lawyers from the Tort Section of the Attorney General's office (in view of the fact that the defendants' federal suit also sought $700,000,000 in damages against Messrs. Younger, Deukmejian, and Tapper).

25. Finally, after a federal suit was filed by Church members in Texas (acting, in my opinion, under the direction of defendants Armstrong and Rader), I spent considerable time in locating and retaining Texas counsel to

investigate and deal with the matter; in reporting to the Superior Court and in obtaining an order from the Superior Court directing that any response be made or directed by me (and Texas counsel of my selection) on behalf of the State of California; and in consulting with Texas counsel about how to deal with the Texas federal suit.

26. In addition to the foregoing matters, I also successfully opposed an application for leave to intervene in this action by Church members, which application for leave to intervene was denied by Judge Weil on February 20.

27. In addition to court hearings and court papers, as above set forth, I have also spent enormous amounts of time in telephone conversations and meetings with opposing counsel, with the receiver and his lawyers, with Mr. Tapper, and with Church members and employees wishing to provide me with information pertinent to the maintenance and prosecution of the suit.

28. Because of the pace at which this litigation and the associated federal and appellate proceedings have been conducted, I have not yet had a full opportunity to prepare a detailed statement of my activities, the time spent in connection with them, or the costs and expenses I have incurred in this matter. I have, however, commenced such a study and can estimate that my own time to date comes to approximately 375 hours. At my usual rate of $200 per hour, this means that my fees incurred to date are approximately $75,000.

29. In addition to the time above set forth, I estimate that out-of-pocket costs incurred to date by me personally

amount approximately to $2,000. My usual hourly rate of $200 is intended to cover and include all normal overhead costs of my practice and my office. Thus, no additional claim will be made by me for library expense, secretarial time or overtime, the time of my assistant (equivalent to para-legal time billed by most firms at $50 per hour), routine photocopying (as distinct from high-volume, non-recurring photocopy jobs), or routine telephone charges. I do make claim for certain photocopy costs and certain unusual long-distance telephone expense, as well as other unusual out-of-pocket expenses.

30. In addition to my own time and expense, I have been advised by the other lawyers involved in this case that their time spent and expenses incurred to date are approximately as follows:

Hugh John Gibson	$11,000.00
Rafael Chodos	7,800.00
Cohn & Lifland, Peter Pearlman and Jeffrey Herrmann	5,000.00
Potter, Guinn, Minton, Roberts & Ireland and Leonard Davis (Texas counsel)	3,172.50

31. I and all of the other lawyers who are involved in this case are in the process of preparing detailed affidavits setting forth the work done, the time spent, and the costs expended. These will be filed with, and submitted to, the Court in due course in support of this application. It is my intention that these affidavits will include all time and

expenses incurred through March 1, 1979, the day on which the Court presently proposes to terminate the receivership.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of February, 1979, at Beverly Hills, California.

/s/ HILLEL CHODOS
HILLEL CHODOS

Appendix Z-2

Letter of Attorney General Deukmejian to Honorable William H. "Bill" Ivers (Dated January 31, 1979)

STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
3580 Wilshire Blvd.
Los Angeles, California 90010
(213) 736-2304

January 31, 1979

Honorable William H "Bill" Ivers
Assemblyman, Forty-Second District
State Capitol
Sacramento, California 95814

Dear Bill:

Before addressing myself to some of the specific questions you have asked with regard to the action filed by my predecessor against the Worldwide Church of God, I would like to give you a little background so that you may understand the nature of the action and our duty to pursue it.

Worldwide Church of God, Inc. is a California corporation created under the general nonprofit code, as are Ambassador College and Ambassador International Cultural Foundation. The only legal distinction between the three organizations lies in the nature of their purposes: religious, educational and cultural, respectively. Federal and state tax exemptions were sought and obtained by each of the corporations, and they have for some years received the benefits, which accrue both publicly and privately from such status as well as from their ability to operate as Cal-

ifornia corporations. In the eyes of the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

In recognition of the public interest in charities, it has been consistently held by the courts that the state, has the duty and obligation to oversee the handling of their assets. In most states, including California, this responsibility falls upon the attorney general.

Accountability and proper disposition of charitable assets are required at all times by all charitable organizations. Moreover, these standards although delicately balanced in the case of religious corporations, nevertheless apply in full force. There are numerous examples of attorney general involvement in such matters as exemplified by *People* v. *Christ Church,* 78 Cal.App.2d 858; *Metropolitan Baptist Church of Richmond, Inc.* v. *Younger,* 48 Cal.App. 3rd 850; *Queen of Angels Hospital and Franciscan Sisters of the Sacred Heart* v. *Younger,* 66 Cal.App.3rd 359; *People* v. *Western Missionary Army.* There are, of course, other cases in which this office has involved itself in the supervision of assets held by religious corporations, many of which were resolved short of trial and appeal. Also, I am sure you must be aware that the United States Supreme Court has carefully delineated in its First Amendment decisions the cases involving church property on the one hand and church doctrine on the other hand.

Turning to the matter now before us, it is important to recognize that the arguments raised by the defendants, both constitutional and otherwise, have received extensive judicial review by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and are now pending before the California Supreme Court. The record on which Judge Title converted the temporary

receivership which was in place for seven days to a full receivership for the pendency of the litigation, was seven inches thick, consisting not only of declarations but also of documentary evidence and live testimony introduced in the course of a three day trial. In denying the petition for removal of the receivership, the Court of Appeal stated that it had read the record and concluded that the relief sought by petitioners was not justified. Thus, the questions your constituent has raised concerning the sufficiency of evidence of wrongdoing and the appropriateness of our action in seeking and obtaining a receiver have been thoroughly aired and resolved in our favor.

In closing, Bill, let me add that we are constantly mindful of the faith reposed by many in their religious leaders. We also recognize that there are those who would view any legal challenge by the state as an attack on their religious beliefs. Nevertheless, the law imposes an affirmative duty on this office to require trustees of religious organizations to be accountable for all funds and other assets and to not divert them to their own use and enjoyment or to any use other than those authorized to carry out the purpose of the corporation. When, as here, we have evidence of such diversions, we are bound to bring it before the court as the ultimate custodian of all charitable assets. This we have done. The court, in turn, has ordered a receivership as narrowly circumscribed as the circumstances will permit.

I hope this will help in answering your questions and those of your constituents.

Sincerely,

/s/ GEORGE
GEORGE DEUKMEJIAN
Attorney General

Supreme Court, U. S.
FILED
MAY 5 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,
Petitioners,

vs.

PEOPLE OF THE STATE OF CALIFORNIA,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

GEORGE DEUKMEJIAN,
Attorney General,
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General,
3580 Wilshire Boulevard,
Los Angeles, Calif. 90010,
(213) 736-2044,
Attorneys for Respondent.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

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IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,
Petitioners,

vs.

PEOPLE OF THE STATE OF CALIFORNIA,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

Statement of the Case.

Los Angeles Superior Court case No. C 267-607, entitled *The People of the State of California v. Worldwide Church of God, Inc., et al.*, was initiated January 2, 1979. That proceeding is primarily concerned with correcting alleged fraudulent diversion of assets of the Worldwide Church of God, Inc. (hereafter "Church"), Ambassador College, Inc. (hereafter "College") and Ambassador International Cultural Foundation (hereafter "Foundation") by individuals who control those corporations — particularly petitioner Stanley R. Rader. The action seeks to compel an accounting and further equitable relief shown to be warranted by the accounting. It was brought by the Attorney General of the State of California as the only party other than the accused wrongdoers having the clear legal standing under California law to do so. (See Argument at II A, p. 23 *infra*.)

The operative complaint, the Second Amended Complaint (P.App. 12b),[1] alleges that individual defendants have been and are syphoning off and diverting to their own use and benefit substantial sums which are assets of the Church, College and Foundation. Rader has admitted that he has engaged in specific self-dealing transactions with the charitable corporations. During a three day hearing (held January 10-12, 1979) to determine if the temporary receiver of the Church, College and Foundation should be replaced by a receiver *pendente lite*, Rader testified that he is an officer and director/trustee of each of the three nonprofit corporations; that he has acted as general counsel and as a certified public accountant for the three nonprofit corporations; that he has a lucrative employment contract with the church executed a time when he was acting for the Church in all those capacities, but that he knew of no independent legal advice which the church received before entering into that contract (R.App. 5-6);[2] that one or all of the nonprofit corporations paid for all or part of a Beverly Hills home the title to which Mr. Rader took in his own name and subsequently sold for 1.8 million dollars, pocketing the proceeds; that the Church purchased a home in Tucson, Arizona title to which was placed in Mr. Rader's name; that Mr. Rader organized and owned an interest in an advertising agency called Worldwide Advertising, Inc. which handled

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[1]References are to Appendices to the Petition for a Writ of Certiorari herein designated P.App., or to Appendices presented with this Brief In Opposition, designated R.App.

[2]Mr. Rader's employment contract dated July 30, 1976 was placed in evidence before Judge Title. (R.App. 70.) It shows that Rader was, and had been since at least 1969, and probably before, acting in a fiduciary capacity with the Church, College and Foundation. In connection with determining to confirm the appointment of the receiver the court stated " . . . I certainly question the legality of his present employment agreement, the enforceability of that present employment agreement with the church under these circumstances." (R.App. 24.)

all media time purchases for the Church, College and Foundation; and that Mr. Rader formed a partnership known as Mid-Atlantic Leasing, which has purchased airplanes and leased them to the charitable corporations for profit. (R.App. 7-21.)

Much of the evidence presented at that hearing had been presented in documentary form only nine days before to the Superior Court in support of the state's ex parte application for appointment of a temporary receiver.[3] Among other things, that documentary evidence included the following information:

1. In the "Pastor's Report" of August 14, 1978 (R.App. 46-48) Mr. Rader admitted to engaging in the various self-dealing transactions discussed, *supra*.

2. Mr. Rader's law firm acts as attorneys for all of the nonprofit corporate defendants. (R.App. 38.)

3. Documents entitled "Pastor General Department — Report of Expenditures" (Exhibit B to Declaration of Benjamin Chapman, R.App. 53) and a monthly executive expense analysis dated March 3, 1978 (Exhibit C to the Declaration of Alvin Earl Timmins, R.App. 60) set forth luxury expenditures by corporate executives in amounts so extravagant that Judge Julius M. Title, who presided at the hearing of January 10-12, 1979, referred to them as "astonishing." (R.App. 22.) (Discussed in more detail, *infra*.)

4. In July 1978, Mr. Rader sold for $1,800,000 the Beverly Hills home for which the Church had paid, pocketing the proceeds. (R.App. 41.)

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[3]The sworn declarations, and most of the exhibits thereto, which made up that documentary evidence are reproduced in R.App.D, pp. 35 to 69. Petitioners incorrectly characterize the hearing on the ex parte application, as a "secret meeting" (Petition, p.5). The hearing was recorded verbatim by a court reporter, and the transcript thereof is part of the record. (P.App. 156b.)

5. From May 1978 to the filing of this action the Church had liquidated or was in the process of liquidating 12 parcels of real estate for a total price in excess of 13 million dollars. (R.App. 61-62, 68.)

6. The declaration of Benjamin Chapman, a former director of the Church and College, revealed that as a director he had never voted on any question in connection with the management of those corporations, and that defendant Rader effectively controls the operation and management of Church finances. (R.App. 52, 54.)

7. A Church "Pastors Report" dated December 19, 1978 accuses defendants Wright and Kuhn of diverting Church assets to a Texas corporation owned by them. (R.App. 64.) A letter dated July 24, 1978, from defendant Rader to Garner Ted Armstrong, (a former high Church official and son of Herbert W. Armstrong) made elaborate offers of compensation and other benefits in exchange for a requested promise by Garner Ted Armstrong that he would not reveal the internal financial affairs of the Church. (Declaration of Alvin Earl Timmins, R.App. 61.)

8. Church employees had informed declarant Alvin Earl Timmins that many of the Church's records, particularly those pertaining to executive compensation and expense accounts, and to transactions between the Church and various entities owned and controlled by defendant Rader, had been removed from the Church's main office in Pasadena to the suite of offices maintained by Rader and his accounting firm (and his affiliated companies) in Century City, and that many records were being mechanically shredded or destroyed. (Declaration of Alvin Earl Timmons, R.App. 61.) The Executive Payroll for the Church and College were subsequently found on January 3, 1979 in the Century City offices of Worldwide Advertising, one of the entities controlled by Rader. (R.App. 17.) Also, a mechanical document shredder was found in the executive offices of Ambassador College on January 3, 1979. (R.App. 102, 104.)[4]

Testimony at the January 10-12, 1979 hearing further showed that some of the self-dealing transactions by Rader were continuing — *e.g.*, the Tucson home, airplane leases, and lucrative employment contract. In appointing the receiver *pendente lite*, Judge Julius M. Title concluded that ". . . there have been some very serious questions raised here concerning the use and transfer of assets in the form of money and property to those in control of the church." (R.App. 22.)

The complaint also seeks to correct the failure of Church, College and Foundation leaders to comply with the Church's own articles of incorporation and with State corporation laws. (A copy of the Articles of Incorporation is reproduced at R.App. 90 to 92.) It alleges that the Church incorporated under the California Nonprofit Corporation Law, which requires the corporation to be run by a board of directors, but that in fact all three corporations have "dummy" boards which exercise no powers at all. An order is prayed for directing the corporations to comply with the terms of their Articles of Incorporation and State laws under which they were organized. The Superior Court also may have been impressed by the fact that there existed at the time of the

---

[4]On the basis of such information a Superior Court Judge determined that the immediate appointment of a receiver ex parte was necessary to bring an immediate halt to diversions of charitable trust assets and to safeguard the records of past diversions from destruction or loss. Thus there was probable cause to conclude that the immediate and ex parte appointment of a receiver was necessary in order to prevent irreparable injury to the public interest through the dissipation and diversion of charitable trust assets and the destruction or secreting of trust records evidencing such diversions. Under the circumstances nothing short of appointing a receiver to take possession of such financial records and to halt diversion of assets would have sufficed to prevent such irreparable injury.

January hearing three different versions of the By-laws of the church, differing from one another on crucial points. For instance, a provision was suddenly inserted at the time the state action commenced indemnifying officers and directors for expenses of defending actions for abuse of their fiduciary duties as trustees of these charitable assets. (See Article XII of By-laws R.App. 32 and R.App. 121-122.)

Again, in confirming the receivership, Judge Title expressed concern that the corporations were not being operated in compliance with their own articles of incorporation:

> "In spite of the fact there are specific provisions in the articles and by-laws which place control in the board of directors, it seems, nevertheless, to be conceded that for many years this was essentially a one man operation, with Mr. Armstrong making all the decisions on a completely unilateral basis . . ." (R.App. 23.)
>
> "Mr. Armstrong apparently has taken the position that he can do what he pleases with reference to the affairs of this church, and without consulting with anyone else, including the board of directors. When you combine this with the inference that Mr. Rader now in reality has replaced him or is in the process of replacing him it becomes obvious, it seems to me, that the trial court will have to make a full inquiry into this situation." (R.App. 25.)

But these were not the only concerns of the Superior Court in appointing a receiver pending trial. The church financial reports attached to the complaint disclose travel expenditures of bizarre and exorbitant amounts. For instance, credit card expenditures by Osamu Gotoh, an employee of the church, and a defendant in the state court

proceedings, exceeded $2 million in one three year period. Examples are the following: August 8, 1975 American Express, Hotel Plaza, Athenee, Paris $12,416.93; August 31, 1975 American Express, Imperial Hotel, Tokyo, Japan $13,735.74. June — September 1975 purchase of cameras and related equipment — totaling an excess of $10,000. Perhaps most astonishing of all was that these documents disclosed an unbelievable total of credit card expenditures by Gotoh for travel, lodging and "public relations" purposes of $813,931.53 in the period July 1, 1975 through June 30, 1976. (R.App. 39-41.)

But Mr. Gotoh was not alone in such expenditures. Mr. Rader made a charge (only one example of many) on September 11, 1975 to Diners Club at the Hotel Plaza, Athenee in Paris of $12,049.39. (R.App. 40.)

Evidence also showed that similar expenditures continued in 1978. Another church financial report attached to the original moving papers shows that Rader had incurred some $51,431.14 in expenses which were being held for payment in March 1978, including a $22,571.19 bill from Hotel Plaza, Athenee, Paris, and $10,591.17 in expenses relating to the Tucson home, including furnishing, mortgage payment and "golf club." The same report shows $51,094.13 in travel expenses incurred by Henry Cornwall, another defendant in the State court proceedings, including $22,-925.56 at the "Imperial Hotel." (R.App. 40-41.)

There was also substantial evidence from which Judge Title could conclude that records had been removed from church premises after the initial appointment of the receiver (January 2, 1979) and in violation of court order. Despite his emphatic denials, there was substantial evidence that John Kineston (Rader's chauffeur and administrative assistant) had removed church records from church premises after the receiver was appointed. (R.App. 112-113.) Like-

wise, although Virginia Kineston (Rader's executive secretary) had filed a declaration denying that shredding of church records had ever taken place, substantial evidence was produced to show that such shredding had in fact taken place, and Mrs. Kineston herself ultimately admitted it. (R.App. 101-105.)

Judge Title confirmed the original appointment of a receiver *pendente lite* first orally on January 12, 1979, and subsequently in a written order dated January 19, 1979. (P.App. 41b.) That order provided that the receiver was to supervise and to monitor only the business and financial operations of the Church and conduct an audit thereof. He was ordered not to interfere even with those business and financial operations except to the extent he believed it necessary to protect assets from continuing misappropriation. Thus the Court carefully tailored the receivership to accomplish the narrow purposes of securing a financial audit, safeguarding financial records and preventing any continuing misappropriation of funds. The receiver was instructed not to interfere with the ecclesiastical functions of the Church. He was given the right to fire employees of the Church but not to affect their standing as Church members. The Court assiduously sought to avoid any interference in matters of religious doctrine and practice.

At that time, and during the entire term of the receivership, petitioners asserted to the Court that the chief objectives of the receivership, to secure an accounting and safeguard assets, could be achieved through injunctive orders "with which defendants (petitioners herein) assured the court they would comply." (R.App. 92.) Upon motion of the petitioners to dissolve the temporary receivership, having received these assurances from the petitioners, the trial court on March 2, 1979 dissolved the receivership and substituted an injunctive order (P.App. 49b). The court reserved

jurisdiction to reinstitute the receivership if that proved necessary to protect charitable assets and secure a proper accounting from the petitioners.

Such reservation of jurisdiction to reinstitute the receivership indeed proved to be necessary when the petitioners repudiated their assurance of cooperation with the injunctive order, filed an appeal from that order, and asserted that all mandatory aspects of the injunctive order were stayed pursuant to California law pending appeal. The court on its own motion thereupon reinstituted the receivership by its Minute Order of March 12, 1979 (P.App. 59b) asserting that "the *status quo* of the assets and records must be maintained pending appeal." However, the order further provided that reinstatement of the receivership would be stayed if petitioners posted a $1,000,000 appeal bond. Appellants then posted such a bond.

In arguing against the reinstitution of the receivership, petitioners' counsel asserted that the audit could still go forward through discovery in the form of depositions, interrogatories, production of documents, etc., as those procedures would not be stayed by appeal from the March 2, 1979 order. (R.App. 87.) Obviously, petitioners have by their subsequent conduct repudiated that position. Here they ask this Court to foreclose even discovery as an avenue to ascertain the extent of their own wrongdoing.

Subsequent to the stay of the receivership, the primary focus of the state court proceedings has revolved around discovery. Attempts thus far futile, to obtain discovery from the petitioners, include the discovery orders which are the subject of the pending Petition for Writ of Certiorari (Petition, pp. 2-3, n. 3).[5]

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[5]Another such order, one which was the subject of a prior unsuccessful petition for certiorari (No. 79-205, denied October 15, 1979), instructed Rader to appear for his deposition, initially in January 1979. He eventually appeared, but refused to answer virtually every question propounded (R.App. 95).

While petitioners have given the State virtually no discovery, they have obtained extensive discovery from the State and from third party witnesses without interference from the State (P.App. 244b). Such discovery (obtained prior to July 6, 1979) includes production of documents from the State on June 29, 1979, receipt of a list of all Church documents in the State's possession, seven depositions, and production of General Telephone Company records and documents. All depositions taken by the petitioners have been adjourned without opportunity for the State to examine the witnesses. (R.App. 93-95.)

Because of the priority given to the State to take Mr. Rader's deposition, for which he repeatedly refused to appear (P.App. 276b), because no State court defendant (petitioners herein) has made any discovery to the State, because all defendants have made it clear that they would refuse to make discovery at least until appellate reviews of discovery orders were complete, because petitioners had obtained substantial discovery both from third parties and from the State, and out of ''elemental fairness,'' the Superior Court stayed all discovery by defendants commencing August 8, 1979. (P.App. 281b.) As the Court stated on September 21, 1979, in extending the stay until November 26, 1979, he did so not to punish other defendants for Mr. Rader's actions but because no defendants were making discovery and in fact openly stated they would make no discovery (R.App. 88-89).[6]

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[6]Petitioners argue that the Superior Court's stay of their discovery from the State is a form of punishment for seeking appellate review of its orders compelling petitioners to make discovery to the State. (Petition, p. 44.) This argument ignores the fact that petitioners were allowed to conduct the extensive discovery described in the text, *supra*, without the State's having received any discovery from them whatsoever. In fact Petitioners are not being denied *reciprocal* rights of discovery, as was the defendant in *Wardius v. Oregon* (1972) 412 U.S. 470, for they have not yet reciprocated. That case merely held ''[I]t is fundamentally unfair to require a defendant to divulge the details of his own case while subjecting him to the hazard of surprise concerning refutation of the very pieces of evidence which he disclosed to the State.'' *Id.* at 476.

Moreover, the stay serves the rational policy of avoiding a waste of both charitable and State resources in propounding and responding to discovery until it has been judicially determined whether in fact the State will be allowed to proceed, not only with its own discovery, but with its very case. Petitioners do not (and cannot) argue that they will be forced to trial without the benefit of adequate discovery.

Summary of Argument.

Petitioners' key contentions are that the challenged pretrial discovery orders are constitutionally defective because (1) the very filing and prosecution of the lawsuit of which they are a part violates petitioners' First Amendment rights; and, (2) there is a First Amendment requirement that before the instant discovery will be permitted from a religious organization in an action to remedy ''misuse of church assets by individual church officers'' there must be a ''judicial determination that the suspicion has some basis in fact.'' (Petition, p. 11.)

Respondent contends to the contrary as follows:

(1) This Court should not interfere with the state court discovery proceedings because there has been no showing that petitioners are not receiving adequate opportunity to vindicate their constitutional concerns in the state courts, because the discovery orders under attack are merely pretrial orders designed to facilitate the trial, and because no showing has been made that the state courts cannot sort out the myriad legal and factual issues presented by the proceedings;

(2) The instant suit is brought for the purpose of furthering a compelling state interest in providing a remedy, through the application of neutral principles of law, for fraudulent diversion of the assets of religious and charitable corporations and violation of the articles of such corporations, pursuant to the state's well settled powers to enforce

charitable trusts and state corporation laws; the suit does not have the effect of materially inhibiting any legitimate religious practice; and to the extent that any religious practice may be marginally affected, such is clearly necessary to further the above compelling state interests;

(3) If discovery obtained from a religious organization is necessary to further such compelling state interests, it need not be justified by any further showing; and to the extent such a showing may constitutionally be required respondent has produced it in ample measure through extensive evidence in the trial court of *prima facie* violations of state fiduciary and corporation laws; significantly, petitioners do not argue that the self-dealing transactions proved by the state do not constitute *prima facie* violations of state law fiduciary standards; it is therefore difficult to discern the basis for their claim that this lawsuit "is essentially a fishing expedition." (Petition p. 29.)

ARGUMENT.

I.

Principles of Federalism Require the Court to Abstain.

A review of a lower federal or state court decision on a writ of certiorari is not a matter of right, but of sound judicial discretion. The writ should be granted only when there are special and important reasons therefor. (28 U.S.C. Rules of the Supreme Court, Rule 19; *Durham v. United States* (1971) 401 U.S. 481, 483).

In exercising that discretion over the years, this Court has given recognition to various circumstances under which a federal court may decline to proceed with a review of a state court decision even though it has jurisdiction under the Constitution and statutes. This practical concept, generally referred to as the "abstention doctrine," cautions federal courts to stay the exercise of their power to review and assess state statutes in situations (1) where the case involves difficult and unsettled issues of state law which, if first decided by the state courts, might avoid the necessity for the federal courts to decide the asserted federal constitutional claims, (2) where there might be needless conflict with the administration by a state of its owns affairs, and (3) where decision in a diversity case turns upon difficult and unresolved questions of state law. (R. Stern & E. Gressman, Supreme Court Practice 101-103 (5th ed. 1978); C. Wright, Law of Federal Courts § 52 (3d ed. 1976); *see also* L. Tribe, American Constitutional Law §§ 3-39 to 3-41 (1978).) In the recent landmark case of *Younger v. Harris* (1971) 401 U.S. 37, Justice Black, speaking for the Court, described the doctrine as one of comity:

> ". . . that is, a proper respect for State functions, a recognition of the fact that the entire country is made up of a Union of separate state governments, and a

continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways. This, perhaps for lack of a better and clearer way to describe it, is referred to by many as 'Our Federalism'. . . ." (*Id.* at 44.)

This Court's most recent exposition on abstention is found in *Moore v. Sims* (1979) .... U.S. ...., 60 L.Ed.2d 994, 99 S.Ct. 2371. In *Moore*, authorities of the State of Texas had initiated proceedings in state court to take custody of three minor children who were suspected of being the victims of child abuse. The parents brought suit in the federal district court to challenge the constitutionally of the state statutory scheme under which the Texas authorities were proceeding. A three-judge district court concluded that abstention was unwarranted, granted appellants relief, and enjoined further state proceedings. This Court noted probable jurisdication and reversed, holding that the district court should have abstained. The following language from *Moore* applies with equal force to the case at bar:

"The *Younger* doctrine, which counsels federal court abstention when there is a pending state proceeding, reflects a strong policy against federal intervention in state judicial processes in the absence of great and immediate irreparable injury to the federal plaintiff. *Samuels v. Mackell*, 401 U.S. 66, 69 . . . (1971). That policy was first articulated with reference to state criminal proceedings, but as we recognized in *Huffman v. Pursue, Ltd.*, 420 U.S. 592 . . . (1975), the basic concern — that threat to our federal system posed by displacement of state courts by those of the National Government — is also fully applicable to civil proceedings in which important state interests are involved. . . . The existence of these conditions [that is,

where the state is a party to the state proceeding, and where the state statute in controversy is 'in aid of and closely related to criminal statutes'], or the presence of such other vital concerns as enforcement of contempt proceedings, *Juidice v. Vail*, 430 U.S. 327 . . . (1977), or the vindication of 'important state policies such as safeguarding the fiscal integrity of [public assistance] programs,' *Trainor v. Hernandez*, 431 U.S. 434, 444 . . . (1977), determines the applicability of *Younger-Huffman* principles as a bar to the institution of a later federal action." (*Id.* at 2377.)

This Court then set forth the policy reasons underlying the abstention doctrine as follows:

"There are three distinct considerations that counsel abstention when broad-based challenges are made to state statutes, and it is common to see each figure in an abstention decision; for the broader the challenge, the more evident each consideration becomes. There is first the *Pullman* concern: that a federal court will be forced to interpret state law without the benefit of state court consideration and therefore under circumstances where a constitutional determination is predicated on a reading of the statute that is not binding on state courts and may be discredited at any time — thus essentially rendering the federal court decision advisory and the litigation underlying it meaningless. [Citations.] These dangers increase with the breadth of the challenge.

"The second consideration is the need for a concrete case or controversy — a concern also obviously enhanced by the scope of the challenge. . . .

"The final concern prompted by broad facial attacks on state statutes is the threat to our federal system of

government posed by 'the needless obstruction to the domestic policy of the states by forestalling state action in construing and applying its own statutes.' [Citation.]

"State courts are the principal expositors of state law. Almost every constitutional challenge — and particularly one as far ranging as that involved in this case — offers the opportunity for narrowing constructions that might obviate the constitutional concerns and state interests. When federal courts disrupt that process of mediation while interjecting themselves in such disputes, they prevent the informed evolution of state policy by state tribunals. *Trainor v. Hernandez*, 431 U.S. 434, 445, . . . (1977). *The price exacted in terms of comity would only be outweighed if state courts were not competent to adjudicate federal constitutional claims — a postulate we have repeatedly and emphatically rejected. Huffman, supra*, 420 U.S., at 610-611. . . .

"In sum, the only pertinent inquiry is whether the state proceedings afford an adequate opportunity to raise the constitutional claims." (*Moore v. Sims, supra*, at 2380-2381. Emphasis added.)

In the underlying state action here at issue, the State of California, acting through its Attorney General, has brought an action to safeguard the assets of various charitable nonprofit corporations from fraudulent misappropriation by the persons in control thereof.[7]

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[7]In his recent treatise on constitutional law, Professor Lawrence Tribe has set forth five rules to describe the abstention doctrine, the third of which is peculiarly applicable to the case at bar:

"(3) If, at the time the litigant initiates federal proceedings, the litigant is a party in a state civil proceeding initiated by state officials, and if the litigant can raise the constitutional issue in that proceeding, the litigant will again ordinarily be denied federal declaratory or injunctive relief." L. Tribe, American Constitutional Law § 3-41 (1978).

By this action the state seeks to vindicate its strong and legitimate public policies (1) against fraud and misappropriation, (2) that charitable assets be applied to charitable purposes, and (3) that the officers and directors of any corporation formed under state law operate that corporation in accordance with its articles of incorporation. Clearly, safeguarding the fiscal integrity of nonprofit corporations holding assets upon a charitable trust is no less important than safeguarding the fiscal integrity of public assistance programs; thus, the issues pending in the underlying state action are of "vital state concern." (*Trainor v. Hernandez* (1977) 431 U.S. 434, 444.) Moreover, petitioners have not, and cannot, make any showing that the underlying state action was brought in bad faith or for purposes of harassment, nor that either of the state statutes which they seek to call into question (former Calif. Corp. Code § 9505 and its successor, Calif. Corp. Code § 9230 — P.App. 30a-32a) is "flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph, and in whatever manner and against whomever an effort might be made to apply it." (*Huffman v. Pursue. Ltd.* (1975) 420 U.S. 592, 611.)

Respondent submits that in light of the foregoing principles, abstention is not only clearly applicable in the instant case, it is mandatory. For this Court to interject itself into this matter at this early stage of the proceedings would be a clear and direct abrogation of the principles of Federalism.

II.

Neither the State Court Proceeding nor the Discovery Orders Under Attack Violate the First Amendment.

A. Pursuant to Ancient and Settled Legal Principles, Religious Organizations Hold Their Assets in Trust for Their Religious Purposes, Which Are Also Charitable Purposes, and the State Attorneys General Are the Only Parties With Clear Practical and Legal Standing to Enforce Such a Trust.

In general throughout the United States, religious purposes are regarded as charitable, and trusts for religious purposes are enforced as charitable trusts. (See *In Re Metropolitan Baptist Church of Richmond, Inc.* (1975) 48 Cal.App.3d 850; IV Scott on Trusts (3d ed.) § 371, pp. 2879, 2880; *Morman Church v. United States* (1889) 136 U.S. 1, 47, 51, 62.) Likewise, the state attorneys general are charged with the enforcement of such trusts because the fulfillment of the purposes of charitable, including religious, organizations is thought to be of general benefit to society as a whole.[8] In that sense, such entities are trustees of their assets and hold such assets in trust for the religious or charitable purposes set forth in their governing documents. (*Pacific Home v. County of Los Angeles* (1953) 41 Cal.2d 844, at 851-852; *In Re Metropolitan Baptist Church of Richmond, Inc.* (1975) 48 Cal.App.3d 850, 857. See also *Morman Church v. U.S., supra,* at 51.) Any diversion of such funds is a breach of trust. (See California Civil Code §§ 2228 et seq.; *In Re Metropolitan Baptist Church of Richmond, Inc., supra,* at 857; *Holt v. College of Osteopathic*

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[8]In California the Attorney General's standing is codified at former Corporations Code section 9505; replaced as of January 1, 1980 nearly verbatim by Corporations Code §§ 5250 and 9230. See P.App. 30a through 32a for the text of former section 9505 and current section 9230, respectively.

Physicians & Surgeons (1964) 61 Cal.2d 750, at 759-760; *People v. Christ's Church* (1947) 79 Cal.App.2d 858; *People of the State of Cal. v. Larkin* (N.D. Cal. 1976) 413 F.Supp 978.)

In *Morman Church v. United States, supra,* this court held that the assets of "public or charitable corporations" upon dissolution "become subject to the disposal of the sovereign;" and that the Morman Church corporation was subject to that rule. (*Id.* at 47.) In that case Congress had revoked the charter of the church corporation, which had been formed under the laws of the Federal Territory of Utah. The government brought suit ". . . for the purpose of taking possession of and holding for final disposition the property of the defunct corporation in the hands of a receiver, and winding up its affairs." (136 U.S. at 64.)

> "This Court upheld the revocation of the charter, relying on the reserved power of the Congress over the acts of territories, 136 U.S., at 45-46. The seizure of the property was bottomed on the general rule that where a charitable corporation is dissolved for unlawful practices, *id.*, at 49-50, the sovereign takes and distributes the property according to the *cy pres* doctrine to objects of charity and usefulness, e.g., schools. *Id.*, at 47, 50-51. A failure of the charitable purpose could have the same effect. *Id.*, at 59." (*Kedroff v. St. Nicholas Cathedral* (1952) 344 U.S. 94, 120.)

The court applied a "leading and prominent principle" of the "law of charities" to ensure "that property devoted to a charitable and worthy object, promotive of the public good, shall be applied to the purpose of its dedication, and protected from spoilation and diversion to other objects. Though devoted to a particular use it is considered as given

to the public, and is, therefore, taken under the guardianship of the laws.'' (136 U.S. at 51.)

In more recent time this Court has continued to recognize that the activities of religious organizations are of general benefit to society as a whole, and has on that basis held that a state grant of property tax exemption to churches does not violate the establishment clause of the First Amendment. (*Walz v. Tax Commission* (1970) 397 U.S. 664, 680.) In discussing the public benefit aspects of religious and other charitable organizations which justify extending to them such tax exemption, Chief Justice Burger, speaking for the Court, observed:

> ''New York, in common with the other States, has determined that certain entities that exist in a harmonious relationship to the community at large, and that foster its 'moral or mental improvement,' should not be inhibited in their activities by property taxation or the hazard of loss of those properties for nonpayment of taxes. . . . The State has an affirmative policy that considers these groups as beneficial and stablizing influences in community life and finds this classification useful, desirable, and in the public interest.'' (397 U.S. at 672-673.)

See also the separate concurring opinions of Justices Brennan (397 U.S. at 687) and Harlan (397 U.S. at 696-697).

It follows that the State has a strong interest in preventing and correcting the fraudulent misappropriation of the assets of religious entities. The purposes of the Worldwide Church of God include secular public benefit activities. The separate, but church controlled, College and Foundation corporations are formed for educational and cultural purposes which are clearly not purely religious. Moreover, the church

receives significant contributions from members of the public outside the church membership.[9]

Enforcement by the various state attorneys general of charitable (including religious) trusts is an ancient and nearly universal practice in this nation. Such a practice must not lightly be cast aside on constitutional grounds. As Chief Justice Burger observed in *Walz, supra*:

> ''Yet an unbroken practice of according the [tax] exemption to churches, openly and by affirmative state action, not covertly or by state inaction, is not something to be lightly cast aside. Nearly 50 years ago, Mr. Justice Holmes stated: 'If a thing has been practiced for two hundred years by common consent, it will need a strong case for the Fourteenth Amendment to affect it. . . .' '' (397 U.S. at 678.)

The supervision of charity by state attorneys general goes back far longer than even 200 years. The attorneys general and chancery courts of England had such supervisory powers prior even to the enactment of the English Statute of Charitable Uses in 1601. (Stats. 43 Elizabeth I, c. 4; IV Scott on Trusts (3d ed.) § 368.1, p. 2857, § 391, p. 3002.)

Most recently, Mr. Justice Rehnquist has refused to halt a state court action by respondent herein to remedy fraudulent diversion of assets of another religious corporation in *Synanon Foundation, Inc., et al. v. The State of California. et al.* (1980) ..... U.S. ..... , 100 S.Ct. 497 . There, Justice Rehnquist refused the application of a religious organization for a stay of an order of the United States District Court for the Eastern District of California denying appli-

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[9]These facts were specifically admitted by Petitioners in their prior petition to this Court last term (No. 78-1720). See pp. 4-5 of that petition, of which this Court is respectfully requested to take judicial notice.

cants' motion for a preliminary injunction forbidding the State of California and its Attorney General from instituting a civil action against the applicants in state court. The only substantive difference between the relief sought in the two cases is that in *Synanon, supra,* the applicants sought an order prohibiting the *commencement* of a state court action, while in the instant case the petitioners seek to overturn state court discovery orders on the asserted basis that the entire action is unconstitutional and without which the action cannot for all practical purposes *continue* to proceed.

In the *Synanon* case, *supra,* Justice Rehnquist noted that:

> "The District Court's opinion denying the prayer for a preliminary injunction indicates that the Attorney General of California has the traditional power of the chief law enforcement officer of most jurisdictions to intervene in the administration of charitable trusts or corporations when he has reason to believe that they are not being administered in accordance with the trust instrument or in contravention of state law." (100 S.Ct. at 497.)

Justice Rehnquist went on to hold that state courts are free to resolve property disputes concerning hierarchical churches in accordance with neutral principles of law. In that regard, his opinion states as follows:

> "Applicants contend, however, that by reason of the fact that they are a church, under the First and Fourteenth Amendments of the United States Constitution they are somehow entitled to different treatment than that accorded to other charitable trusts. But we held only last term that state courts might resolve property disputes in which hierarchical church organizations were involved in accordance with 'neutral principles' of law. *Jones v. Wolfe,* 47 U.S.L.W. 4962, 4963-64 (1979); *Presbyterian Church v. Hull Church,* 393 U.S. 440, 449 (1969)." (100 S.Ct. at 497.)

Clearly, the *Synanon* case supports the State's position that the First Amendment does not bar the instant state court civil action seeking to remedy fiscal fraud in the administration of charitable assets held by a church and related corporations.

In California and in many other states the attorney general is the only party other than corporate directors or trustees (who in this case are the very persons accused of wrongdoing) who has standing to enforce a charitable trust. (*Holt v. College of Osteopathic Physicians & Surgeons, supra,* at 755-757; IV Scott on Trusts (3d ed.) § 391, p. 3002 at 3006.). While the public as a whole is the beneficiary of all charitable trusts, members of the public (including in this case members of the Worldwide Church of God) have no clear authority to bring court actions to enforce a charitable trust.[10] If petitioners are successful in their contention

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[10]Under the new California Nonprofit Corporations Code, effective January 1, 1980, standing to bring an action to remedy a breach of trust by a person(s) in control of a religious corporation is specifically limited to the corporation itself, officers and directors of the corporation or persons with a reversionary, contractual or property interest in the assets subject to trust. (Corp. Code § 9142.) Members, whether congregants or donors, are not included. Thus outright breach of trust, such as diverting assets to private inurement, is not subject to redress by members of the affected church.

Standing to correct another form of trust abuse, self-dealing, is given to "members" (§ 9243) but the term "members" is so defined and the requisites of standing so rigid as to effectively eliminate standing for most church members, including members of the petitioner Church.

"Member" is defined by section 5143 of the new code to mean ". . . any person who has the right to vote for the election of director or directors of a corporation pursuant to the corporation's articles or bylaws." Under the Bylaws of the petitioner Church, the only person given authority to appoint directors of the corporation is the President, Herbert W. Armstrong. (See, art. IV, § 2 of the Bylaws R.App. 29.) Therefore, Church members are not "members" of the Corporation. Nor are other persons, including members and congregants, given authority by the Bylaws to bring such actions. Moreover, even if members

(footnote continued on following page)

that the Attorney General can likewise not pursue such an action, it would merely legitimize fraud in the name of religion. This Court should have no trouble rejecting such a lawless result.

Petitioners suggest that "permitting derivative suits by individual church members" (Petition p. 24) would be a sufficient alternative for "pursuing probable misappropriation or other misconduct by individual church officers" (Petition p. 23) which would presumably be less intrusive of First Amendment interests than the course pursued here. Besides being contrary to the long tradition of state enforcement of charitable trusts, that approach would require government to leave to private parties the task of vindicating compelling state interests. Respondent knows of no case holding that such would either be wise public policy or required constitutional doctrine. For one thing, private plaintiffs may be tempted to sacrifice the public interest which they represent in favor of their own private interests should the two conflict. For another, private plaintiffs may lack the resources in many instances to litigate successfully against a corporate management with other people's money at its disposal.[11]

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of this or any church qualify under the new code to bring an action to correct self-dealing, by its own terms section 9243 requires compliance with the provisions of another section, section 5710, which requires such a member to provide security in an amount up to $50,000 upon defendant's motion and a specified showing, excepting where the action is brought by a large number of members, 100 or as otherwise provided dependent on the number of persons with "voting power." In the case of Worldwide Church of God, of course, the electorate consists only of one man, Herbert W. Armstrong.

[11]A case in point is the instant one in which prior to this petition respondent has (successfully so far) withstood over 15 petitions for extraordinary writs and two appeals brought by petitioners in state appellate courts, as well as two prior petitions for certiorari and five applications for stays in this Court, and three counter-suits (*Lopez v. State*, L.A. Superior Court No. C276 767; *Worldwide Church of God, et al. v. State*, L.A. Superior Court No. NE C 27165; and *Worldwide Church of God v. State*, U.S. District Court, Southern District of California, No. 79-0183).

Moreover, such a derivative suit would necessarily involve courts in making the same types of decisions and ordering the same types of discovery as in the instant case. Since the judiciary is as much an arm of government as the executive, such a suit would include "intrusions" comparable to the ones of which petitioners here complain. See *Barr v. United Methodist Church* (1979) 90 Cal.App.3d 259; a suit brought by private plaintiffs against a church in which defendant argued (unsuccessfully) that the First Amendment prohibits making a church a defendant in a suit for fraud and breach of contract stemming from charitable activities carried on by church agents.

Finally, since the number of potential plaintiffs who could initiate such derivative suits could be quite large, that alternative carries the potential for multiplying the number of nuisance suits against churches, in each one of which the courts may have to make decisions and grant discovery comparable to those in the instant case.

B. The First Amendment Does Not Excuse the Perpetration of Fiscal Fraud in the Name of Religion, nor Does It Shield the Perpetrators From Corrective Action in the Courts.

Appellants' arguments that the Attorney General's efforts in this action to uncover and correct misappropriation of charitable funds somehow impedes impermissibly the free exercise of religion are grounded in the premise that the courts will never be able to distinguish successfully between the financial and business affairs of the church on the one hand, and its spiritual and ecclesiastical affairs on the other. The essence of such an argument is that the business and financial activities of a church at every level are inextricably intertwined with its religious activities and the fulfillment of its religious purposes, that it is impossible for the state to separate the secular activities of the church from its re-

ligious activities, and that *any* state supervision of the church's secular activities is therefore unconstitutional. The acceptance of such an assertion would necessarily lead to the conclusion that the state is simply powerless to correct any misuse of church assets by those in control of the church, no matter how wrongful or fraudulent it may be, because *anything* that such persons may do with church property would be, by definition, a protected religious activity.

That assertion notwithstanding, however, the law is not such an ass as to be unable to distinguish between secular matters (including fiscal fraud) and ecclesiastical belief. In *Cantwell v. Connecticut* (1940) 310 U.S. 296, while invalidating a conviction for alleged unlawful solicitation of funds for religious purposes, the United States Supreme Court nevertheless made it plain that "[n]othing we have said is intended even remotely to imply that, under the cloak of religion, persons may, with impunity, commit frauds upon the public." (310 U.S. at 306.)

The United States Supreme Court has also made it clear that the rule prohibiting "entanglement" between church and state does not apply to cases involving "fraud, collusion, or arbitrariness." (See, e.g., *Gonzales v. Roman Catholic Archbishop* (1929) 280 U.S. 1, 16; *Md. & Va. Churches v. Sharpsburg Ch.* (1970) 396 U.S. 367, concurring opinion of Brennan, J., fn. 3, at 369.)

Even Justice Douglas, as staunch an advocate of religious freedom as has sat on this Court in recent times, observed succinctly that he had no intention of intimating or suggesting "that any conduct can be made a religious rite, and by the zeal of the practitioners swept into the First Amendment." (*Murdock v. Pennsylvania* (1943) 319 U.S. 105, 109.)

Petitioners argue that the state court proceeding at issue here necessarily entails an unconstitutional entanglement of church and state, citing cases invalidating various governmental regulatory schemes which have been held to constitute a prior restraint on religious practices, and which were not supported by compelling governmental interests. (Petition, p. 27.) There is a most significant distinction, however, between such government regulation and what is happening in this case. The complaint in the instant case alleges that fraudulent acts have already occurred; namely, the diversion of church assets to private benefit. It does not seek to impose a regulatory scheme upon churches. That distinction is an important one because none of the cases cited by the petitioners to this Court have involved a suit to correct past and on-going fiscal fraud in the administration of a religious entity.

For example, *Surinach v. Pesquera de Busquets* (1st Cir. 1979) 604 F.2d 73 involved continuing close governmental regulation of the tuition prices charged by religious schools, which was not supported by a compelling state interest. In the instant case, on the other hand, the governmental action which grieves petitioners is not close and continuing regulation, but a single lawsuit addressed to fraudulent acts *which have already taken place* and are continuing. And the governmental interest which supports that lawsuit is the compelling interest in the prevention and correction of fraudulent misappropriation of assets dedicated to religious and charitable purposes. It cannot seriously be argued that the prevention of fraud is not a compelling state interest.

Likewise, other cases cited by petitioners are distinguishable from the instant case as involving governmental regulatory schemes which place direct prior restraints upon religious practices: *NLRB v. Catholic Bishop of Chicago* (1979) 440 U.S. 490 (invalidated federal agency's attempt

to regulate church school-teachers' activities); *Fernandes v. Limmer* (1979) 465 F.Supp. 493 and *Intern. Soc. for Krishna Consciousness v. Bowen* (7th Cir. 1979) 600 F.2d 667 (invalidated permit requirement for solicitation of funds).

Finally, in *Cantwell v. Connecticut* (1940) 310 U.S. 296,[12] the fountainhead of these cases, the court invalidated a criminal conviction for solicitation of funds for religious purposes without a required permit, clearly a prior restraint upon what has been long recognized as a legitimate religious practice, the solicitation of funds.

C. The Instant Action to Halt and Correct the Fraudulent Diversion of Charitable Assets Does Not Materially Burden Any Genuine Religious Practice; Any Incidental Burden Thereon Is Justified by Compelling State Interests.

The instant action, and the discovery orders attacked by petitioners, do not materially interefere with any genuine religious practice. Any incidental interference is necessitated by compelling state interests.

This Court first articulated the three-factor test it uses to examine free exercise claims in *Sherbert v. Verner* (1963) 374 U.S. 398. In that case, a Seventh-Day Adventist was denied unemployment insurance compensation because she refused to work on Saturday, the Sabbath of her faith. In order to analyze her claim that the denial of benefits in-

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[12]Neither do the *Cantwell or Intern. Soc. for Krishna Consciousness* cases, *supra* restrict state action to redress fraudulent diversion of charitable assets to criminal proceedings, as petitioners suggest (Petition, p. 30). See *Sec. & Exchange Com'n v. World Radio Mission, Inc.* (1st Cir. 1976) 544 F.2d 535 and *People v. Whitney* (1953) 121 Cal.App.2d 515. Moreover, search warrants and subpoenas available in criminal proceedings are just as obtrusive as civil discovery devices. *In Re Rabbinical Seminary, Etc.* (E.D.N.Y. 1978) 450 F.Supp. 1078, 1085-1086.

fringed on her free exercise of religion, the Court inquired: (1) Is a sincere religious interest at issue? (2) To what extent has the state interfered with that interest? (3) Is there a compelling state interest which justified the interference? In weighing "the seriousness of the individual deprivation against the governmental interests involved," the Court found that Mrs. Sherbert's First Amendment rights had been unconstitutionally abridged. (*Conservatorships and Religious Cults. Divining a Theory of Free Exercise* (1978) 53 N.Y.U.L. Rev., 1247, 1261.)

Nine years later in *Wisconsin v. Yoder* (1972) 406 U.S. 205, the court refined this balancing approach in a challenge by Amish parents to compulsory school attendance past the age of sixteen. The Court stated that in order to compel attendance it would have to be shown "either that the state does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause." (*Id.* at 214.) "[In] essence . . . only those interests of the highest order and those not otherwise served can overbalance *legitimate* claims to the free exercise of religion." (*Id.* at 215, emphasis added.) Because the state action was in conflict with a central tenet of the Amish faith and because the state interest (in a citizenry adequately prepared for life) was served by the vocational education of the Amish themselves, the Court held that the state could not, on First Amendment grounds, compel school attendance.

Application of this three-factor test to the instant case clearly reveals that the state court civil fraud action does not directly interfere to any significant extent with any genuine religious interest, and that any incidental interference with such religious interests is far outweighed by compelling state interests.

The state suit is not directed at any religious doctrine or practice. Its principal purpose is to obtain an accounting of assets which have been fraudulently diverted from charitable purposes to private benefit; even the petitioners make no claim that such diversion is permitted by any church doctrine or practice. Moreover, such an accounting is necessary to advance the compelling governmental interest in the correction of fraud by ascertaining the extent of such fraud.

The state action is aimed exclusively at fiscal activity. It has been held that fund raising by a religious organization through the operation of a retail sales business is not a religious but rather a commercial activity which may constitutionally be licensed by the state. (*Muhammad Temple of Islam v. City of Shreveport, La.* (1974) 387 F.Supp.1129, aff'd. 517 F.2d 922 (5th Cir. 1975).) The court recognized that to the extent that the business profits were impeded by governmental licensing and regulation, the religious activities would be impeded by lack of funds. But the burden was an indirect one and justified by a legitimate state interest. If fund raising through the operation of a business is not a religious activity then *a fortiori* the fraudulent diversion of charitable assets held by a religious organization is not a religious activity either. If in correcting such fraudulent activity the state indirectly burdens legitimate religious activities then that burden is justified by a proper state interest. Logically, under the three-pronged test, if a religious interest is only indirectly affected by state action, the countervailing governmental interest which is served by such action need not be as strong in order to outweigh it as it would to justify direct infringement of a religious practice.

The fiscal fraud at which the instant suit is aimed is clearly no part of any religious practice. Only that activity which is actually religious in nature is favored with First Amendment protection. See, e.g., *Sec. & Exchange Com'n v.*

World Radio Mission Inc., supra, 544 F.2d 538. There, the S.E.C. brought an action to enjoin a religious organization and its leader from violating anti-fraud provisions of the 1933 and 1934 Securities Acts through false representations in connection with the solicitation of loans. Defendants asserted that even if such solicitations were untrue, and such loans were securities, they were entitled to First Amendment protection because "the 'investor' also, in effect, subscribes to religious 'articles of faith.' " But the court looked behind that assertion and found that the solicitation primarily offered the promise of high pecuniary returns rather than spiritual dividends. (*Id.* at 539.)

But even assuming for the sake of argument that petitioners have identified a significant religious interest which will be harmed by the instant state action, that action is not necessarily constitutionally infirm. Rather, the balancing test set forth in *Wisconsin v. Yoder* and *Sherbert v. Verner, supra*, is applicable thereto. The issue then becomes whether the infringement upon religious activities is outweighed by a substantial and important secular state interest. As discussed above, the State's interest in preventing and correcting fiscal fraud is not only strong and legitimate, but compelling; and where a corporation is controlled by those accused of defrauding it, an action for an equitable accounting, as in the instant case, constitutes an appropriate state action necessary to advance that compelling interest.

While Mr. Justice Rehnquist's opinion in *Synanon, supra*, is dispositive of the question in any event, this case does not involve an issue as to the State's general "investigative powers" over religious organizations, because the state action complained of by petitioners (discovery orders) are not part of an executive investigation, but part of a court suit. Such lawsuit necessarily involves the court as an impartial arbiter of the state's claims of wrongdoing, and the

judiciary rather than the executive makes the determination of what documents and testimony the executive will be permitted to elicit in the course of the lawsuit. Ultimately, the court decides whether the executive has adequately proven his allegations and if so, what judicial remedies will be applied.

Neither does this case involve the issue of whether the state can compel a church to account to it whenever it pleases (Petition, p. 34). Such a power is not necessary to confer standing upon the Attorney General to bring a suit to remedy fraudulent diversion of church assets. Paragraph 10 of the Second Amended Complaint (P.App. 16b) alleges the state law basis for the Attorney General's standing to seek judicial remedies for fraudulent diversion of charitable assets held by religious entities. Such assets are deemed to be held in trust, and the corporations and individuals which control them are deemed to be trustees who hold legal but not beneficial title to them (Part II, infra, p. 18).

The complaint requests an accounting from individual defendants (and the for-profit corporate defendants) for their management of such assets, not on the basis of some abstract duty to do so upon state demand, *but because there is a specific necessity therefor*. Paragraph 12(a) of the complaint alleges that the individual and for-profit corporate defendants have diverted assets of the Church, College and Foundation to their own private benefit. (P.App. 17b.)

The state has not merely *alleged* a necessity for an accounting, it has produced evidence in state court *supporting* that allegation.[13]

Obviously, California, as well as other states, has a strong and compelling interest in forbidding fraudulent diversion

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[13]See Statement of the Case, pp. 1 to 11.

of corporate funds, whether or not the affected corporation is a church. Likewise, the state has a strong and compelling interest in ensuring that the officers of any corporation formed under state law obey the provisions of its articles of incorporation and state statutes requiring that the corporation be controlled by a lawfully selected board of directors and not by the individual fiat of one man. These are neutral principles of law and are applicable in the same manner to religious corporations as they are to secular ones. (See *Jones v. Wolf* (1979) ..... U.S. ..... 99 S.Ct. 3020; *Presbyterian Church v. Hull Church* (1969) 393 U.S. 440, 449.) Thus, the mere filing of an enforcement action by a state attorney general seeking to protect such compelling state interests can violate no First Amendment rights.

Neither does the relief requested in the instant suit go beyond that necessary to protect such compelling state interests. The instant suit prays for the equitable remedy of an accounting by the church as well as the other charitable corporations and individual defendants, and any equitable relief which the accounting shows is necessary to make the Church, College and Foundation whole and ensure against fraudulent diversions of assets in the future. Such relief is necessary to advance compelling governmental interests (correction of fraud and violation of state corporation laws). For example, much of the alleged fraud in this case consists of transactions between Stanley Rader, or businesses controlled by him, and the Church, College or Foundation.[14]

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[14]Under the law applicable when the said transactions occurred, such self-dealing transactions by fiduciaries are absolutely prohibited. (Cal. Civ. Code, Secs. 2228-2235.) Section 2234 makes any such transaction a ". . . fraud against the beneficiary of a trust." California courts hold that such prohibitions apply not only to trustees of charitable trusts but to officers and directors of charitable corporations as well. See, e.g., *People v. Larkin* (N.D. Cal. 1976) 413 F.Supp. 978, 981-982; *Lynch v. John M. Redfield Foundation* (1970) 9 Cal.App.3d 293, 301.

Under these circumstances, of course, all of the records of such transactions are either in the possession of Rader or the charities. With few exceptions, there would be no other sources for such evidence. If such records are barred from view, it would be impossible to determine the extent of the fraud and therefore impossible to secure adequate relief. For example, Rader testified that he did not know whether the Church put $500,000 or $800,000 into the Beverly Hills home to which he took title and which ultimately sold for $1.8 million, pocketing the proceeds. (R.App. 10-11.) This information is contained in Church financial records. Without an accounting from those records it will be impossible to determine the full extent to which the Church was damaged by this unconscionable transaction.

Rader himself refuses to answer questions upon deposition. His refusal to answer questions and to account is itself wrongful conduct for a fiduciary, and it emphasizes the necessity of examining the financial records of the charitable corporations, which it is alleged he controls, in order to determine the extent of his wrongdoing.

Moreover, mere examination and copying of financial documents and questioning of witnesses to financial transactions can have little effect on either the religious practices or administration of the church. Whatever minor imposition this may present to the custodians of church financial records and to church employed witnesses who have knowledge of financial transactions, is far outweighed by the governmental interest in correcting fraudulent diversion of corporate assets. Moreover, the burden upon religious practices would certainly be far greater if this remedy were not available. For there would then be no way to recover such misappropriations on behalf of religious entities.

This Court has approved far more extensive burdens upon individual's rights to practice their religions in situations where such burdens were necessary to advance substantial governmental interests. In *Gillette v. United States* (1971) 401 U.S. 437, it was held that so-called selective conscientious objectors who objected only to the Vietnam War as an unjust war, rather than to war in any form, may constitutionally be required to perform military service. The court held, at page 462, that "incidental burdens [on the exercise of religion may be] justified by substantial governmental interests." In *Johnson v. Robison* (1974) 415 U.S. 361, it was held that a conscientious objector who performed alternate civilian service in lieu of military service may constitutionally be denied veteran's educational benefits by the United States Government. In *Braunfield v. Brown* (1961) 366 U.S. 599, a Pennsylvania law requiring businesses to close on Sundays was upheld against the claim that it was unconstitutional as applied to merchants whose religion observed Saturday as the Sabbath and whose religious beliefs compelled them to close their businesses on Saturday. The state's interest in obtaining one day a week of entire peace and quiet was held to outweigh the burden upon the Sabbaterian merchants who were forced to close their businesses both Saturday and Sunday, to their great economic detriment. (366 U.S. at 607.) Finally, in *Prince v. Massachusetts* (1944) 321 U.S. 158, it was held that a state child labor law forbidding minors from selling literature in public places did not violate the First Amendment rights of a child and her guardian where the guardian furnished the minor with religious literature and permitted her to distribute the same on the streets. It was held that the state's interest in protecting children outweighed the consequent burden upon a religious practice (321 U.S. at 170).

III.

The First Amendment Does Not Require That Courts Refuse to Enforce the Provisions of a Church's Own Corporate Charter.

A principal purpose of the instant suit is to enforce the provisions of the church's own Articles of Incorporation against the officers who have violated them. Such provisions include Article II(d) (R.App. 90) which provides that the corporation is not formed for the private profit of any member, and Article IV (R.App. 90), which requires that the business of the corporation be governed by a board of directors (rather than by individual fiat, which the trial court found to be the case with Petitioner Church herein). (R.App. 23.)

Incredibly, petitioners argue that the state's demand that the church corporation be governed in accord with the dictates of its own charter is an attempt to *restructure* the form of church governance from hierarchial to congregational (Petition, p. 40). Such a claim in itself is an admission that management has not in fact governed the corporation according to its own rules.[15]

If such provisions cannot be enforced by legal process, then no church would be free to incorporate with any expectation that the terms of its articles would be effective. These terms of course are not imposed upon the church by the state, but voluntarily adopted by it as the rules which

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[15]The state seeks also to remove individual defendants who may be found to have committed fraud from holding any office or employment in any of the subject charitable corporations, under the well-settled equitable principle that the court may remove trustees who are guilty of breaching their trust. We do not suggest that the court may remove any person from any ecclesiastical position which he may hold. However, if he misuses church funds such a person may constitutionally be disabled from doing so again by being removed from corporate office.

govern its existence as a temporal entity. Having voluntarily chosen to be governed by those rules, corporate officers have no right to exemption from their enforcement. (Compare *Hamilton v. Regents* (1934) 293 U.S. 245, in which this Court held that having voluntarily chosen to attend a state university, students did not have a right under the 1st Amendment to be exempted from university-required military training classes because the student's religious beliefs were opposed to participating therein. Of course, in the instant case, not even petitioners claim that diversion of church assets to private profit is sanctioned by any religious doctrine or belief.)

The courts have uniformly enforced a church's own arrangements for control of church property. Thus, state statutes purporting to authorize local congregations of a hierarchial church to withdraw from the parent church and take church property with them have been held unconstitutional. (See *Northside Bible Church v. Goodson* (5th Cir. 1967) 387 F.2d 534, 537-538.) Similarly, this court invalidated a New York statute designed to transfer control of a cathedral from the parent church headquartered in Russia to a local organization of the same church. (*Kedroff v. St. Nicholas Cathedral* (1952) 344 U.S. 94.)

Just as civil courts must enforce a church's ecclesiastical rules determining in whom church law places control over a cathedral building, they must enforce the Articles of Incorporation adopted by the same church to govern its temporal affairs. Failure to do so would impede religious liberty in both instances in exactly the same way, by rendering ineffective the rules the church has voluntarily adopted for the governance of its affairs. In neither case does such enforcement constitute either a decision of a question of religious doctrine, or a forbidden entanglement in religious affairs.

Where the rule to be enforced is a prohibition against diversion of church assets to private profit, the state interest in enforcement is much greater than that of merely providing a forum for the settlement of a dispute concerning who has the right to control church property. The state interest is nothing less than preventing the dissipation of such assets altogether. And the policy behind state law that charitable (including religious) assets are held in trust (see argument, *supra*, pp. 17-22) makes that interest even stronger.

Petitioners' contention that "intra-church transactions" (such as Mr. Rader's employment contract) are somehow exempt from state law fiduciary standards (Petition, p. 37)[16] conflicts with the approach this Court has taken to the resolution of church property disputes. Such disputes (which typically concern fights for control of church assets between factions with religious doctrinal differences—See *Watson v. Jones*, 13 Wall. 679) are at least as much "intra-church" matters as Rader's unconscionable employment contract (to which the Church agreed without benefit of independent legal counsel) or his egregious transfer to himself and subsequent sale of a $1.8 million dollar church-owned mansion. (See Statement of the Case, *supra*, p. 2.) But they are nevertheless resolved by the courts through the application of "neutral principles of law." See *Jones v. Wolf* (1979) ..... U.S. .....,) 99 S.Ct. 3020; *Presbyterian Church v. Hull Church* (1969) 393 U.S. 440 at 449.

Petitioners also contend that the state does not seek to apply "neutral principles of law" to this case because it

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[16]Certainly their speculations that "arms length bargaining may be wholly alien to intra-church relationships" (Petition, p. 37) and that there may be "fiduciary strictures . . . prevailing within the Church" which vary from those "preferred by . . . the state" (Petition, p. 39) are both unsupported by the record and in conflict with Article II(d) of its Articles of Incorporation (See p. 36, *supra*).

ignores the alleged wishes of church members whom it does not allege disapprove of the way in which church leaders have spent its assets (Petition, p. 39). (In so contending, petitioners ignore the fact that the State does allege that church leaders have failed to fully account to anyone for such expenditures (P.App. 17b), and that evidence indicates self dealing transactions occurred without even Board of Director knowledge or approval (See Statement of the Case, *supra*, p. 6).) This claim is truly ironic in the light of the fact that the Superior Court found that "Mr. Armstrong has apparently taken the position that he can do what he pleases [with church affairs] without consulting with anyone else." (See Statement of the Case, *supra*, p. 6.) For it presupposes what church leaders deny, that church members are entitled to any voice in the governance of its affairs.

IV.

The Conduct of the Lawsuit Has Not Violated Petitioners' Fourth Amendment Rights.

Petitioners argue that the alleged "initial illegality" of the receivership "taints the discovery orders upheld below (Petition, pp. 41-43),[17] implying that the State's subsequent discovery requests were shaped by "reviewing information obtained by the . . . receiver' " (Petition, p. 42). But that argument fails because (1) the receiver's examination of financial documents intruded upon no reasonable expecta-

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[17]That contention assumes the applicability of the exclusionary evidence rule to civil proceedings. But this Court has so far refused to apply the exclusionary rule in civil cases. In that regard Justice Blackmun, speaking for the majority in *United States v. Janis* (1976) 428 U.S. 433, 447 stated that "(i)n the complex and turbulent history of the (exclusionary) rule, the Court never has applied it to exclude evidence from a civil proceeding, federal or state." Again in *United States v. Calandra* (1973) 414 U.S. 338, 348 the Court stated that the exclusionary rule has "never been interpreted to proscribe the use of illegally seized evidence in all proceedings or against all persons."

tion of privacy, and (2) the receiver's actions were authorized by valid legal process supported by a strong and adequate showing of need.

The Fourth Amendment to the United States Constitution prohibits only *unreasonable* searches and seizures. "Whether the government's activity is considered a 'search' depends upon whether the individual's reasonable expectations of privacy are disturbed." (*Davis v. U.S.* (1967) 413 F.2d 1226, 1232 (5th Cir. 1969), citing the test formulated in *Katz v. U.S.* (1967) 389 U.S. 347, which first defined reasonableness for Fourth Amendment purposes in terms of the individual's expectation of privacy.)

A trustee has the duty to give full and accurate information concerning trust assets to the beneficiary and to permit him to examine the trust property and accounts. (*Union Trust Company of San Diego v. Superior Court* (1938) 11 Cal.2d 449, ...; *Scott On Trusts* (3d ed.) § 173.)

Accordingly in *Strauss v. Superior Court* (1950) 36 Cal.2d 396, the California Supreme Court upheld the validity of a trust beneficiary's subpoena duces tecum to the trustee compelling him to produce all trust financial records for a period of 15 years; this in a proceeding to perpetuate testimony at a time when the beneficiary had not even filed an action accusing the trustee of any wrongdoing. The Court based its holding on the right of the trust beneficiary to inspect all trust books and records. (36 Cal.2d at 401.) Moreover, the Court rejected the contention that such a broadly worded subpoena constituted an unreasonable search and seizure in violation of the Fourth Amendment. (36 Cal.2d at 403.) It is therefore settled law in California that a trustee has neither a legal right, nor a reasonable expectation, of privacy in the books and records of the trust vis-a-vis the trust beneficiary or his representative. If there is no such reasonable expectation of privacy in trust records

it follows that the beneficiary's inspection of such records does not constitute an unreasonable search and seizure within the meaning of the Fourth Amendment. (*Katz v. U.S.* (1967) 389 U.S. 347, 353; *Davis v. U.S.* (2d Cir. 1969) 413 F.2d 1226, 1232.)

The financial records of trustees have been traditionally subject to close scrutiny by courts of equity and by trust beneficiaries. In the case of a charitable trust, the state attorney general represents the beneficiary and indeed is the only party having legal standing to do so. (See Argument, *supra*, pp. 17-25.)

Even if the actions of the court appointed receiver in taking possession and commencing an audit of the financial books and records of the Church, College and Foundation were considered to be a "search," such actions nevertheless would comply with the requirements of the Fourth Amendment. The actions were authorized by valid legal process in the form of an ex parte order.[18] The issuance of such order ex parte was reasonable under the circumstances because it was supported by a showing of severe irreparable injury to the public interest; *i.e.*, the probability that charitable trust assets were being diverted to private benefit and that records of such diversion would be destroyed or hidden if defendants were given advance notice of the application for the order (see Statement of the Case, *supra*, p. 5, n. 4).

If there were any constitutional requirement for the legal equivalent of a warrant to support the actions of the receiver in this case, that requirement could be no more stringent

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[18]An ex parte order is clearly constitutionally permissible, even when it affects First Amendment rights. In *Zurcher v. Stanford Daily* (1978), ... U.S. ...., 98 S.Ct. 1970, 1983, where police obtained a warrant (ex parte) to search files of a newspaper, this Court specifically declined to "demand prior notice and hearing in connection with the issuance of search warrants."

than the showing required as a basis for civil searches by government administrative agencies. In civil inspections, such as this one:

> " 'Probable cause' to issue a warrant to inspect must exist if reasonable legislative or administrative standards for conducting an area inspection are satified with respect to a particular dwelling." (*Camara v. Municipal Court* (1967) 387 U.S. 523, 538.)

In applying a balancing test between the public need and the private right to be free from governmental intrusions, the Court in *Camara, supra*, stated that:

> "[b]ecause the inspections are neither personal in nature nor aimed at the discovery of evidence of crime, they involve a relatively limited invasion of the urban citizen's privacy." (*Id.* at 536-537.)

Likewise, in the instant case the public need to inspect charitable trust records has been shown to be compelling and the private interest infringed by such inspection, if any, is very minor. For example, "self protection" is one of the most important interests which underlie the Fourth Amendment freedom from unreasonable search and seizure. (See *Camara, supra*, at 530-531.) In the instant case, the Church, College and Foundation have no "self protection" interest in being free from an examination of their financial records, because it is clear that those entities are not charged with any violations of either criminal or civil laws. Indeed, the action is brought for the purpose of benefiting such corporations by halting fraudulent diversions of their assets.

In *Marshall v. Barlow's Inc.* (1978) 436 U.S. 307, 320, the Court confirmed that to obtain a warrant for a civil inspection it is sufficient that a government agency show only that "reasonable legislative or administrative standards for conducting an inspection are satisfied with respect to a

particular [place]." Moreover the court added that "if a valid public interest justifies the intrusion contemplated [by an inspection] then there is probable cause to issue a suitably restricted search warrant." (*Id.* at 323.)[19]

Conclusion.

For all of the above stated reasons, the petition should be denied.

Dated: May 5, 1980.

Respectfully submitted,

GEORGE DEUKMEJIAN,
Attorney General,
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General,
Attorneys for Respondent,
People of the State of California.

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[19]Even if the ex parte order appointing the receiver did not meet requirements for civil search warrants, a warrantless search would have been justified by the emergency circumstances of the instant case. A showing was made before the Superior Court that if an ex parte receiver were not appointed irreparable injury would occur to a compelling state interest. In such a circumstance a warrantless search would have been justified. For example, government seizure of unwholesome food and government compelled small pox vaccinations have been upheld against contentions that such actions constitute illegal searches or seizures in violation of the Fourth Amendment. (See *North American Cold Storage Company v. City of Chicago* (1908) 211 U.S. 306; *Compagnie Francaise v. Board of Health* (1902) 186 U.S. 380.) Similarly, in ruling that prejudgment garnishment of a civil defendant's wages without notice or hearing violated his right to due process of law, this Court observed that: "Such summary procedure may well meet the requirements of due process in extraordinary circumstances." (*Sniadach v. Family Finance Corporation* (1969) 395 U.S. 337, 339. See also *Randone v. Appellate Department* (1971) 5 Cal.3d 536, 556.)

Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,

Petitioners,

vs.

THE STATE OF CALIFORNIA, *et al.*,

Respondents.

APPENDIX TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI.

GEORGE DEUKMEJIAN,
Attorney General,
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General,
3580 Wilshire Boulevard,
Suite 800,
Los Angeles, Calif. 90010,
(213) 736-2044,
Counsel for Respondent.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

APPENDIX TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

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APPENDIX A.

Excerpts From Reporter's Transcript, January 10-12, 1979 Hearing, Los Angeles Superior Court.

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THE WITNESS: Stanley R. Rader, R-a-d-e-r.

DIRECT EXAMINATION

BY MR. CHODOS:

Q. Mr. Rader, just to begin with, I noted a moment ago, from what Mr. Browne said and what you said, that members of the church prefer to affirm and not to swear: is that correct?

A. That is correct.

Q. Is there some religious tenet of the Church of God against swearing?

A. Yes.

MR. BROWNE: Objection. I don't believe—

THE COURT: The objection is sustained. It is irrelevant.

Q. BY MR. CHODOS: Mr. Rader, are you the man—May I approach the witness, Your Honor?

THE COURT: All right.

Q. BY MR. CHODOS: Are you the man who took this affidavit that was prepared for Mr. Armstrong's signature to Tucson to have him sign it, the one that was filed in the court?

A. No.

Q. Did you see it before it was filed with the court?

A. I'm not sure if I saw it before it was filed with the court, no.

Q. It starts out and says:

> "Herbert Armstrong being duly sworn upon his oath deposes and states."

And at the end it concludes, "subscribed and sworn to before me this 5th day of January, 1979," and has the signature of a notary public.

Mr. Rader, in your acquaintance with Mr. Armstrong, does he swear or does he affirm?

MR. BROWNE: Objection, Your Honor. It's irrelevant.

THE COURT: Sustained.

Q. BY MR. CHODOS: Mr. Rader, Mr. Browne mentioned your employment contract. Do you have a copy with you?

A. No.

MR. BROWNE: I do.

MR. CHODOS: Perhaps you could give one to the witness.

MR. BROWNE: Shall I give one to the witness, Your Honor?

THE COURT: Yes, please.

MR. BROWNE: For the record, I'm handing the witness the document on the stationery of Worldwide Church of God, dated August 1, 1976, signed by Herbert Armstrong, followed by employment and consulting agreement, numbering 18 pages, followed by employment and consulting agreement addendum, one page.

MR. CHODOS: Can I have a copy to look at?

MR. BROWNE: I haven't collated them all. If you will wait a second.

I have given a copy to counsel, Your Honor.

THE COURT: All right.

Q. BY MR. CHODOS: Mr. Rader, is that the employment contract that as far as you are concerned is presently in force between you and the church?

A. Yes.

Q. The contract says—

Your Honor, I would like to mark that as Exhibit 3, I believe it is.

THE CLERK: Plaintiffs' 3, Your Honor.

THE COURT: It is marked.

MR. CHODOS: 1 and 2 were introduced at the earlier hearing, Your Honor.

1 was an authorization by Judge Weisman, and 2 was the original press release signed by Mr. Armstrong appointing Mr. Cole—

THE COURT: All right.

Q. BY MR. CHODOS: Do you have a pencil, Mr. Rader?

A. A pen.

Q. Just put a 3 in the lower right-hand corner of the first page in a circle.

A. (Marking.)

Q. Thank you, Mr. Rader.

Mr. Rader, this document indicates that it was made and entered into on the 30th day of July, 1976 between you and the church; is that correct?

A. That is what the contract says.

Q. Is that the truth?

A. I'll stand on the written record.

Q. And—

A. This is what it says. It's signed by me and Mr. Armstrong.

Q. Mr. Rader, my question was did you sign it on July 30, 1976?

A. I can't remember that. I told you I'll stand on what the paper says.

Q. Mr. Rader, who drew this contract?

A. This contract was drawn probably by a young associate in the firm of Ervin, Cohen and Jessup after discussions with me.

I think his name is Greg somebody. I don't know his last name.

Q. Gittler?

A. No.

Q. And was Ervin, Cohen and Jessup representing you in that matter?

A. No.

Q. Who were they representing?

A. I asked them to help to prepare these documents based upon instructions that had been given to me by Mr. Armstrong, and contracts with us prepared for Mr. Armstrong for his son Garner Ted Armstrong and for me all at the same time.

Q. In other words, there were three contracts prepared at the same time.

Were they all prepared by Ervin, Cohen and Jessup?

A. They were, to my knowledge, put into final form for Mr. Armstrong by the firm of Ervin, Cohen and Jessup, by a particular man named Greg somebody, whose last name I can't recall.

Q. And, Mr. Rader, you were the individual, were you not, who transmitted to Ervin, Cohen and Jessup's firm the information as to what to put in these contracts for the three people?

A. I told Ervin, Cohen and Jessup's firm what provisions, in general, Mr. Armstrong wanted, what he was trying to accomplish by the employment contracts for each of the people. And I told them to put it into good form, and they did so.

Q. Now, on page 2, Mr. Rader—sorry—page 1 of the agreement, in paragraph A, it recites that since March 1975, which is a year and three months earlier than the date of

this agreement, it says "Rader has served as and is presently serving as a director, executive vice president, executive director, vice president for financial affairs, secretary-treasurer and general counsel for the church and for its related entities."

Do you see that quote?

A. Yes, very clearly.

Q. And you were serving in all those capacities at the time this agreement was drawn up and signed, weren't you?

A. Yes. But we would have to indicate which entity we are talking about and make specific which title I had in each one of the entities.

Q. We will come to that in a minute.

Now, Mr. Rader, you were the general counsel for the church. Was that you, yourself, or was that your firm of Rader, Helge and Gerson?

A. The firm of Rader, Helge and Gerson is merely an association of three lawyers, and Mr. Helge is the person who deals primarily with the church and its related affairs as these problems come up.

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Q. Mr. Rader, who advised the church about the advisibility or the propriety or desirability of this contract?

A. Mr. Herbert Armstrong is God's apostle. He is Christ's representative here on earth at this time. He, by the powers that have evolved upon him spiritually and which, as I understand, after constant review with my co-counsel, Mr. Helge, he has the power to hire and fire, set rates of compensation, things of that nature, and has done so consistently for 46 years.

Q. Mr. Rader, he is not a lawyer, is he, Mr. Armstrong?

A. No, sir, he is not a lawyer.

Q. Did he have any other lawyers advising him besides you and Mr. Helge about this matter?

A. Mr. Herbert Armstrong calls upon lawyers when and if—

THE COURT: Mr. Rader, I think it will help us all if you will listen to the question. You are a lawyer. Respond only to the question. All right?

THE WITNESS: All right.

THE COURT: All right.

THE WITNESS: Can you repeat the question, please.

MR. CHODOS: I'll repeat it.

Q. Did he have any other lawyer besides you and Mr. Helge advising him about entering into this contract from the church when he did so?

A. Not to my immediate first-hand knowledge.

Q. Mr. Rader, there have been other transactions between you and the church in the past few years, the purchase of your home and so on; is that correct?

A. In which years?

Q. Let's take your home on Loma Vista, Mr. Rader.

The home on Loma Vista was originally purchased by the church with church money; is that correct?

MR. BROWNE: Objection, Your Honor. Let me tell you why I'm objecting here.

It's too remote. I'll offer to show that the home was purchased in 1971, and we are prepared to go into that transaction—it occurred eight years ago—to show how the home was purchased, how Mr. Rader assumed the obligations, the fact the money of the sale of the previous home went into it.

The occurrence in 1971 does not have the immediacy for this hearing. I think this Court wants to know what has

happened in the last 90 days, what has happened in the last 60 days.

THE COURT: Mr. Browne, we can't separate it to that extent. I think some background is going to be necessary.

And I am going to have to rely on the good judgment of counsel, both of you, not to enlarge this to the full trial on the merits. Some background is going to be necessary.

MR. BROWNE: I think eight years ago is—

THE COURT: It is a big asset he is talking about, and I think he is entitled to go into that, but only cursorily.

MR. CHODOS: If I can have 20 minutes I'll be through with this part.

THE COURT: Another comment I want to make, gentlemen, and that is going to help us move this along, and that is if you are going to make an objection, you make your objection in legal form and stop. If I require any argument, I will let you know.

Q. BY MR. CHODOS: Mr. Rader, the question was, in 1971 the church bought the house at 840 Loma Vista; is that correct?

A. That is not precisely correct.

Q. Originally the title was put into your name; is that correct?

A. Title was in my name upon—

Q. You have answered the question.

A. Yes.

MR. BROWNE: Your Honor, objection. Can the witness give an answer, and if it requires an explanation let him do it without counsel saying, "You have answered the question"? We are on a fact-finding mission.

THE COURT: All right. Mr. Chodos, give him a chance to explain if he so desires.

Q. BY MR. CHODOS: When the property was originally acquired, was the title put in your name?

A. When the property was originally acquired the property was put in my name. And that was under the specific direction and authorization of Mr. Herbert W. Armstrong who actually selected the home.

Q. All right. Now a few months after—

The money for buying the property came from the church funds, didn't it?

A. The money for the purchase of the property, as I recall, was borrowed on a short-term basis from the United California Bank for the purpose of buying the house for cash.

Q. It was borrowed by the church and then paid to buy the house?

A. That's correct.

Q. Now, Mr. Rader, a few months after the house was originally bought, you quitclaimed the property to the church, didn't you?

A. That's correct.

Q. Then about a couple of years later the property was transferred by the church into your name again; is that right?

A. No. Approximately one year later, when the permanent financing was arranged, I quitclaimed the property to the church so that the financing would be available once it became impossible for me, as an individual, to acquire it all by myself.

After the financing had been arranged for, as my affidavit indicated, the property was then transferred to me, I believe, January 1972, or approximately thereof, and I then assumed some mortgages, gave back a second mortgage, and transferred other property to the church.

Q. Mr. Rader, at the time that all this was happening, your firm was peoviding legal counsel to the church, and your other accounting firm was providing accounting services to the church; is that right?

A. In 197—

Q. '71 and '72.

A. '71 and '72 I was representing the church as a lawyer.

Q. Did Mr. Armstrong or the church have any independent counsel at the time of those transactions?

A. Not to my actual knowledge, but it is quite possible that they did.

MR. CHODOS: Move to strike the part about it is quite possible that they did.

THE COURT: Speculation, and it will go out.

Q. BY MR. CHODOS: Now, Mr. Rader, when you—in 1974, October of 1974, the property was conveyed by the church to you and Mrs. Rader, was it not, in exchange for your assuming a $218,000 liability on the existing loan and giving back a second of $145,000?

A. I do not believe that 1974 is correct, Mr. Chodos.

I said the property was conveyed on or about January 1972.

Q. All right. In any event, Mr. Rader, since the property was occupied by you in the first instance, it is true, is it not, that the church has paid all the payments for the mortgage, the maintenance, the furnishing having to do with that property?

A. Not true, Mr. Chodos.

Q. The church has paid the charges, haven't they?

A. In some years.

Q. And not in others?

A. That is correct.

Q. How did it come to pass that they paid in some years and not in others?

A. To—that will involve a theological explanation, which I would be happy to go through, Your Honor. It would take quite some time, and we would have to call Mr. Helge—

Q. Mr. Helge to give the theological explanation?

A. And the legal aspect of it.

Q. Are you a minister of this church?

A. No.

Q. You have been baptized into it in 1975?

A. That is correct.

Q. Mr. Rader, do you know how much money the church put into this property?

THE COURT: The house?

MR. CHODOS: The house.

MR. BROWNE: Objection. I don't understand. You mean at the original time of purchase?

Q. BY MR. CHODOS: No. Up until now, up until you sold it.

A. It was my understanding, Mr. Chodos, that any payment made to me or for my benefit will be reflected on the books and records of the institution.

THE COURT: If you don't know the answer, state you don't know.

THE WITNESS: I—well—I don't.

Q. BY MR. CHODOS: It is somewhere around $800,000, isn't it, Mr. Rader?

A. I wouldn't think so.

Q. $500,000?

MR. BROWNE: Objection, Your Honor. I think the question is asked and answered.

THE COURT: If the witness knows, he can so state.

THE WITNESS: I don't know.

Q. BY MR. CHODOS: Mr. Rader, in any event, you and Mrs. Rader sold this property in the summer of last year; did you not?

A. That's correct.

Q. And the sales price was $1,800,000?

A. That's correct.

Q. And you have kept that money, that didn't go to the church; isn't that right?

A. That is correct.

Q. Now, at any time, Mr. Rader, was there any independent advice to Mr. Armstrong or to the church concerning your ownership or sale of the house on Loma Vista that you know of?

A. I can't answer, because I don't know.

Q. All right. Now, in addition, Mr. Rader, the house has—the church has bought you a house in Tucson; is that correct?

A. I am using a home in Tucson that was purchased by the church; title is in my name.

Q. How much did that house cost the church, Mr. Rader?

A. Approximately $150,000.

Q. The church paid for furnishing it, correct?

A. It was bought furnished and a few items were added.

Q. Mr. Rader, in addition to the house in Tucson, you and Mrs. Rader also own a house in Pasadena?

A. That's correct.

Q. That is the house you bought from the church is that correct?

A. That is correct.

Q. You paid the church about $255,000 for that house a few months ago, correct?

A. That is correct.

Q. And the way you did that was you paid $75,000 cash, and gave the church back a deed of trust for about $150,000; is that right?

A. Initially, but 60 days later the one fifty-two was paid off.

Q. Now, Mr. Rader, does the church—has the church paid for the cars that you drive?

A. I am entitled to—

THE COURT: Listen to the question, Mr. Rader. Just listen to the question.

THE WITNESS: Well, I don't know. I would have to check my employment contract.

Q. BY MR. CHODOS: Do you have an Aston Martin and Porshe?

A. Those are mine.

Q. Did the church pay for those?

A. No.

Q. Mr. Rader, I would like to go back to something that you mentioned a little while ago on the matter of your different roles that you play.

You have been, as I understand it, Mr. Rader, you and your lawfirm, Rader, Helge and Gerson, have been counsel for the church for many years; is that correct?

A. The association of Rader and Cornwall and—excuse me. Rader and Helge and Gerson have represented the church and its related entities for a good many years, yes.

THE COURT: Mr. Rader—

THE WITNESS: It is an association; it is not a partnership. It is very important.

THE COURT: I think you will save us all some time and expedite this if the question is susceptible to a yes or no, just answer yes or no. You need not repeat the whole question. All right?

THE WITNESS: Yes.

Q. BY MR. CHODOS: Mr. Rader, in addition to that, you have been a member and founding member of the accounting firm of what is now known as Rader, Cornwall, Kessler and Palazzo; is that correct?

A. Yes.

Q. As I understand it, Mr. Rader, in addition to that, you organized an advertising agency called Worldwide Advertising, Inc., which acted as the advertising agency for all the church's media purchases, time purchases?

A. Yes.

Q. And in addition to that, Mr. Rader, you organized an entity known as Mid-Atlantic Leasing, or something like that, which purchased airplanes and leased them to the church; is that correct?

A. Yes.

Q. And let me ask you, Mr. Rader, in connection with any of these activities or services or supply of assistance to the church that you provided through these various entities, did the church have any independent counsel besides yourself or your firm?

MR. BROWNE: Objection, Your Honor. Irrelevant to the scope of these proceedings.

THE COURT: Overruled. You may answer the question.

THE WITNESS: My I ask Your Honor something? He is using the word independent. Does he mean independent of me or in addition to me? He is not being precise.

THE COURT: I assume he means by independent counsel, counsel other than your firm, which had no connection with your firm, is that correct?

MR. CHODOS: Yes.

THE WITNESS: Remember I have asked Your Honor to understand the difference. My firm is not a partnership.

THE COURT: Be that as it may, let's talk about the three people who were associated together.

Bearing in mind that is the context of the question, I think, what is your response?

MR. BROWNE: Objection, Your Honor. Can we have the time frame about this leasing company?

THE COURT: I don't think that is necessary, Counsel.

MR. BROWNE: I think it's 1967, Your Honor.

THE COURT: I don't think it matters.

MR. BROWNE: Ten or eleven years ago?

THE COURT: I indicated to you, Mr. Browne, I think some background is going to be necessary. The quicker we get to it, the quicker we will dispose of the issue now.

MR. BROWNE: May I inquire, Your Honor?

My problem is this. These transactions are brought up. Was Mr. Armstrong independently represented. Now without regard to that answer, I feel compelled to now demonstrate to Your Honor by way of rebuttal they were all fair transactions, that they were proper financially, because I know Mr. Chodos is going to argue just because of the so-called specter of undue influence that we have a problem. And I know that if he gets into those underlying transactions,

we are going to be here a long time. And I feel it's somewhat of an unfair disadvantage in that respect.

THE COURT: I want to assure both of you we are not going to be here for a long time, as I already indicated to you.

Mr. Chodos, you are going to have to move this along. I think you are getting into detail that is not going to assist the Court very much in particular with this ruling.

MR. CHODOS: I asked to have 20 minutes. If I don't spend it all on objections, I will be past it.

THE WITNESS: May I help, Your Honor, in one way?

THE COURT: Yes sir.

THE WITNESS: I don't know whether Mr. Armstrong has consulted independent counsel. That is because Mr. Armstrong is inclined to consult independently of everybody with other people, and I never know with whom he's speaking at any one time.

THE COURT: Your answer is you don't know.

THE WITNESS: Yes.

Q. BY MR. CHODOS: Mr. Rader, a few things about these financial matters.

It's my understanding somewhere in the—let me ask you a foundation question.

We have in our moving papers, which you have read—

You have read them, haven't you?

A. Not completely.

Q. We have attached copies of a document—I think it's called the Pastor's Report, which is sort of a mimeographed or offset printed publication of the church.

A. Yes.

Q. And in those reports there are messages from you; correct?

A. That's correct.

Q. You are in fact the author of those?

A. That's correct.

Q. If something appears in the Pastor's Report over your name, that is your statement?

A. That's correct.

Q. Somewhere in those papers—I'll find it, if you need it—you say you severed all your connection with Worldwide Advertising; is that right?

A. In 1975, that's correct.

Q. Is that when you became a full-time officer of the church?

A. And a member of the church.

Q. You don't have anything to do with it now?

A. Nothing.

Q. It's now all owned by Mr. Gerson?

A. Worldwide advertising?

Q. Yes.

A. Is owned by Mr. Cornwall.

Q. Mr. Gerson, what does he have to do with it?

A. Nothing.

Q. He's on the door there as counsel for Worldwide Advertising. Do you know anything about that?

A. Yes. He subleases space from Mr. Cornwall.

Q. Mr. Cornwall is the gentleman of Rader, Cornwall, Kessler and Palazzo? He's the Cornwall in that group?

A. By name, yes.

Q. Now I understand also, Mr. Rader, that sometime a while ago Worldwide Advertising was no longer—stopped handling the advertising agency function for the church?

A. That's correct.

Q. The church agreed to pay them something like $375,000 for termination damages; is that right?

A. I don't know the details. I was not privy to the transaction. I don't know.

Q. You don't know anything about it?

A. I know something about it, but I never participated in the transaction.

Q. Mr. Rader, can you tell me, did you know that the executive payroll checkbook of the Worldwide Church of God was out at Worldwide Advertising, Inc.?

A. Yes.

Q. The executive payroll records?

A. Yes.

Q. And they were out there a week or so ago?

A. Yes.

Q. What were they doing there, Mr. Rader?

A. The executive payroll had been prepared for some time under the direction of Mr. Cornwall. And Mr. Cornwall at that time was acting as a certified public accountant.

And Mr. Armstrong's instructions were that the executive payroll should be prepared in that manner. When Mr. Cornwall, as I understand it, retired from the public accounting field, he assigned the duties of preparing that—those payroll checks—which is a clerical function—to someone who had formerly been working under his direct supervision.

Q. Is Mr. Cornwall now an officer of the church?

A. No. Never was.

Q. Does he have any—is he employed by the church?

A. No.

Q. He has no connection with the church organization or college or foundation at all?

A. As I understand it, there is a contract between Mr. Cornwall and the church which had to do with this termination, and he may have rights under the contract for payment as some kind of consultant.

Q. Does he prepare the executive payroll now?

A. No.

I just stated the executive payroll has been prepared for some time by another man who formerly was Mr. Cornwall's employee when he was practicing as a public accountant.

Q. This employee is a—

A. You have to ask that of someone else.

Q. Now, Mr. Rader, on the matter of the leasing company—then we will be off of this by a quarter of 11:00—some years ago, you and others formed a firm of some kind, an entity, to buy an airplane and lease it to the church; is that right?

A. That's correct.

Q. And since that time, you and others have bought more than one plane and leased it to the church?

A. That is correct.

Q. And in fact, there is a plane the church is using now called a Grumman II, that was bought by you and leased to the church; is that correct?

A. Yes.

Q. All right. The church—the terms of the lease were such, were they not, Mr. Rader, in every instance, that if the lease had been fully paid, the lease payments would cover the full purchase cost and an interest factor or service charge factor, in addition, for the lessor; is that right?

A. They were leases, and whatever the lease provisions would provide—

THE COURT: If you don't know, say you don't know.

THE WITNESS: I don't know.

Q. BY MR. CHODOS: They were at least finance, purchase-type contracts, weren't they?

In other words, the party paying the lease was, in effect, bearing the entire cost of the time purchase; isn't that right?

A. They were leases. They were leases. You would have to examine the documents if you want to say something else about them.

Q. Mr. Rader, do you not know whether the terms of the lease were such that the church's payments were intended to cover the full purchase price, plus a profit to the lessor for providing the financing; isn't that true?

A. It depends on which plane we are talking about.

Q. Well, let's talk about the Falcon.

A. Which Falcon?

Q. How many Falcons were there?

A. There were two.

Q. Let's talk about the first one.

Let's talk about the second one, the most recent Falcon. Isn't it true that the purchase payments were intended to cover the full purchase, the lease payments were sufficient to cover the full price plus?

A. On the second Falcon there were serious limitations on the amount that the lease would give in terms of the difference between the pay out of the lease and the amounts that the lessee would pay.

In other words, no one knew until the end whether such a figure would be paid.

THE COURT: You know what the plane cost, don't you?

THE WITNESS: Yes.

THE COURT: What did it cost?

THE WITNESS: Well, the plane upon the trade-in was about $2.3 million.

THE COURT: What were the lease payments totaled over the period of the lease?

THE WITNESS: They were to be a certain amount per month, but the interest rate was variable and could not exceed a certain amount to the purchaser.

THE COURT: What were the parameters of that?

THE WITNESS: Well—

THE COURT: The lowest and the highest in the form of the lease payments.

THE WITNESS: Well, I don't have the contract in front of me. I can't—

THE COURT: What is the equivalent, basically the purchase price of the plane?

THE WITNESS: Just about; just about.

Q. BY MR. CHODOS: Now, Mr. Rader, in fact, sometime in 1977, the chruch decided to terminate the Falcon lease; is that right?

A. Yes, in 1977.

Q. And under the provisions of the lease, who drew up that lease, your firm?

A. No.

Q. Ervin, Cohen and Jessup?

A. No.

Q. Who drew it up?

A. The lease was drawn by lawyers in the east, I understand.

Q. Penalty of $620,000 for early termination was paid in 1977, for the termination of that Falcon lease, isn't that right, to the lessor?

A. I'm not sure that that was the amount. I don't know whether it was a penalty, per se.

Q. I will get to that.

A. The lease was terminated, and it is a matter of record.

Q. I will get that to you in just a minute, Mr. Rader.

But while I am at it, the church then bought the Grumman II?

A. No.

Q. They have the Grumman II?

A. They bought the Grumman II in 1970.

Q. Now the church has made all the lease payments on the Grumman II, completed making all the lease payments last year sometime or before; isn't that right?

A. Yes.

Q. Has the title to the Grumman II ever been transferred to the church?

A. Yes.

Q. When did that happen?

A. I think sometime in 1978.

Q. How long after the payments were made?

A. Within the period of time necessary for all the closing documents to be gathered. Mr. Helge, I think, handled that.

APPENDIX B.

Excerpt From Reporter's Transcript, January 12, 1979 Hearing in Los Angeles Superior Court. Pages, 387-391.

(THE COURT:)

There may be other reasons, but certainly on the basis of market value, there really has been no showing. Nevertheless, there have some very serious questions raised here concerning the use and transfer of assets in the form of money and property to those in control of the church.

Again, the weight of the evidence and the final conclusions in regard thereto will have to be determined by the trial court. But I have heard enough, I think, during the course of these hearings, and from my examination of the documents, to at least give me some cause for concern and to lead me to the conclusion that pending the trial some restraints must be imposed on the operations of the church until the action, as I say, is finally determined.

Now, what have some of these questions amounted to? Well, firstly, there has been an astonishing amount of money expended here by Messrs. Armstrong, Rader and others for many purposes, particularly in connection with so-called travel expense, the purchase of extensive gifts and so forth.

Now, certainly, some expenditures along that line are completely proper and permissible, and they are certainly within the discretion of those persons who are authorized to determine whether they should be made.

Of course, the persons have to be authorized, it seems to me—They have to be authorized to indicate and decide what amounts of money should be expended. And the authority of those persons allegedly authorizing them have to be persons, as I say, who are in proper authority in the church.

These are questions which are open to, I think, some arguments, and will have to be examined very carefully at the time of trial.

Now, it can generally—with reference to the conduct of the affairs of the church, the administration of its assets and the expenditures over the last several years, and up to the present time—it seems to be conceded that in spite of the fact that the articles are filed in this corporation under the nonprofit clause of the State of California, and in spite of the fact there are specific provisions in the articles and bylaws which place control in the board of directors, it seems, nevertheless, to be conceded that for many years this was essentially a one-man operation, with Mr. Armstrong making all the decisions on a completely unilateral basis; and perhaps even more recently it has been a two-man operation, in the sense that both he and Mr. Rader are acting jointly. And of course, as you all know, there is some suggestion—at least there is an inference, because of Mr. Armstrong's possible inability to continue with his activities, either because of advancing age or infirmity or disability of one kind or another—that perhaps it is now basically a one-man operation, again with Mr. Rader conducting the affairs of the church.

All of these issues will have to be very carefully scrutinized by the trial court, and they all represent reasons why the court is concluding here that some restraints have to be placed on the conduct of the church business from this point forward, or at least until trial.

MR. CHODOS: Could you speak a little more in the microphone, Your Honor?

THE COURT: I will do the best I can. I am gradually running out of steam.

There have some serious inferences which have been also raised concerning various transactions between Mr. Rader

and the church, from claims of self-interest, possible conflicts in interest; again all of those being problems which are going to have to be resolved in the trial court.

But there has been enough in the way of questions raised which, again, place the court on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the church. Some of these relate to his possible involvement in, for example, leasing aircraft to the church and having an interest in the leasing company; various other business dealings with the church. I am not going into those now in detail, but they all, again, will have to be examined by the trial court.

Now, again, I am not going to dwell on it. There has been the problem raised about these homes which have been transferred to Mr. Rader, one of which he subsequently and concededly sold at a profit of perhaps one million dollars or thereabouts, which he has retained as his own property.

There are also questions with reference to the legal effect of his employment contract under which he receives a salary of some $200,000 a year, plus substantial expenses, with no apparent approval of anyone except perhaps Mr. Armstrong. That is certainly an issue which is open to serious examination.

Mr. Rader is an attorney, of course. I question—I don't know right now the answer—but I certainly question the legality of his present employment argeement, the enforceability of that present employment agreement with the church under these circumstances.

The defendants have taken the position, I think, coincidentally so, that Herbert Armstrong is and is entitled to be in sole control of the church, since it is what the defendants have referred to as a hierarchy; as I say, in spirit of the law, the articles, the bylaws, the fact this is a nonprofit corporation and the fact that the articles and bylaws—certainly the bylaws provide that the control is vested in the board of directors and not in Mr. Armstrong.

Mr. Armstrong apparently has taken the position that he may do what he pleases with reference to the affairs of this church, and without consulting with anyone else, including the board of directors.

When you combine this with the inference that Mr. Rader [may] now in reality have replaced him or is in the process of replacing him it becomes obvious, it seems to me, that the trial court will have to make a full inquiry into this situation.

APPENDIX C.

Excerpts From Constitution and By-Laws of the Radio Church of God.

CONSTITUTION

ARTICLE I

NAME

This association, a corporation, shall be known as RADIO CHURCH OF GOD.

ARTICLE II

OBJECT

The object and purpose of this Association shall be to carry out the active ministry, according to the call and commission of Jesus Christ, of the true CHURCH OF GOD and its various local Churches of God with which it is associated and from which it has come into being, which scriptural call and commission is:

1) to preach and to publish the true Gospel of Jesus Christ, which is the New Testament MESSAGE which God sent by and was preached by Jesus Christ our Lord—the Gospel of the Kingdom of God, in all the world as a witness unto all nations in fulfillment of the prophecy for this time of Matthew 24:14;

2) to effectively warn the people of the United States, the British Common-wealth of Nations, and the Democracies of Northwestern Europe whom we understand to be the descendants of the House of Israel, of the divine judgments from Almight God prophesied soon to fall on our peoples in punishment unless we repent of and turn from our increasing sins and violations of God's laws, and return to national and individual total reliance upon the God of our fathers;

3) to be used of God in the conversion of souls;

4) to minister to those whom God adds to His Church, feeding the flock with the pure Word of God by personal contact and by literature;

5) to establish, raise up, and maintain according to the New Testament pattern, local churches composed of those whom God gives us;

6) to establish and conduct one or more educational institutions or other instruments to educate and train students for active duty in this ministry of worldwide evangelism, organization and conduct of local churches;

7) to minister to the material need of God's people, by healing of the sick through prayer and faith in God's promises of healing, and whatever other physical or material ministry we may be equipped to give.

ARTICLE III

MEMBERSHIP

Section 1. Those who are recognized members of all local churches affiliated with this Association, together with those active co-workers in this ministry, whether by tithes and offerings and prayers only, or by this and personal active full or part-time service, who have been baptized into Jesus Christ and show evidence by the fruits of their lives of having received and being now led by the Holy Spirit of God and who keep the Commandments of God and the faith of Jesus Christ, and who acknowledge this as their sole and only church affiliation shall be considered as members of the RADIO CHURCH OF GOD.

Section 2. Reception of Members: No person can "join" the Radio Church of God or any of its affiliated local

Churches of God, in the usual sense of the word. We conceive, as revealed in Holy Scripture, that God adds to the Church such as are being saved, and it is by His Spirit being received on Conversion that one is baptized or inducted into the true Body of Christ. Any person qualifying according to Section 1 first above, in whom we perceive the grace of God as manifested by the "fruits" borne in his or her life, shall, if located near or visiting one of the local churches, be given the right hand of fellowship in public meeting by the local membership; or, where not accessable to a local congregation in our fellowship, such members, consideered as already having been added to the Body of Christ, the true Church of God, by the Holy Spirit, shall be if when possible extended the right hand of fellowship by any authorized minister or representative of this Body. Isolated members, however, may be considered and recognized as members of the RADIO CHURCH OF GOD without, or pending being extended the right hand of fellowship in this personal manner.

"Article III, Section 3. Dismissal of Members: We are warned in the New Testament that even of our own selves shall men arise, speaking perverse things to cause division and draw away disciples after them; and that 'wolves' in 'sheep's clothing,' making an appearance and pretense of being true disciples or ministers, will enter in among God's true Christians for greedy purpose. We are commanded, and the authority therefore vested in the Church, if the same be deemed expedient for the protection or other benefit of the Church, to mark them that cause divisions and offenses contrary to the teaching of the Bible, to make a full statement of the reasons to the congregation for doing so, and/or disfellowship such persons and avoid them. The determination as to which remedial procedure is

to be invoked, and whether or not the same is 'deemed expedient,' shall be within the sole and subjective discretion of the ministers duly authorized by the Church to make such a determination."

ARTICLE IV
DIRECTORS, OFFICERS, AND DUTIES THEREOF

Section 1. Board of Directors: The corporation shall be controlled by a Board of Directors, which shall consist of thirteen in number, who shall also be Trustees. All Directors, except Herbert W. Armstrong, shall be appointed for a term of one year or until such time as a successor is appointed.

Herbert W. Armstrong shall hold office perpetually by virtue of having been called by divine authority of Jesus Christ as evidenced by the founding, development and growth of this work, the salvation of souls, the raising up of local churches of those converted by and through this ministry, the effective proclaiming of the true Gospel to the entire nation by word of mouth, by radio, and by printed word, which achievements could only be accomplished by the divine direction and the power of God working effectually in and through the one specially called for this mission.

Section 2. Executive Officers and and Duties:

A) The President of the corporation, who shall be a member of the Board of Directors, who also is Pastor of this Church. He shall be the Chairman of the Board of Directors. He shall, by virtue of his office by devine calling and direction, have power and authority to appoint all other Directors and administrative officers, after counsel with the other directors and prayer.

B) A Vice President, whose duties shall be to act as president in the absence of the president.

C) Secretary-Treasurer, who shall keep all minutes of Board meetings and Church meetings, and records of the organization, and shall account for and be responsible for all monies received.

Section 3. Duties of the Pastor: It shall be the duties of the Pastor to preach over the radio, and, when feasable, by television; to write booklets and literature; to edit the PLAIN TRUTH magazine; to preach before public audiences; to preach when possible before our local congregations; to pray for the sick; to ordain elders and deacons; to teach or supervise the teaching of the Bible and courses of Religion at the College training prospective ministers and workers for the mission to which we have been called; to have general oversight and supervision of the Church and its work.

Section 4. Administrative Officers: The President of the corporation shall be the Executive Director over the active administration of the work of evangelism; and in the conduct of the business affairs of this active evangelistic ministry, there shall be employed, responsible to him, such administrative, executive, secretarial and other help as the conduct of the purposes of this Association may require, including, as at present organized:

(1) A Business Manager, whose duties are to manage and supervise all routine and ordinary business administration, including employment and direction of secretaries, file clerks and other office employees; the purchase of supplies; the payment of accounts, supervision over auditing and keeping of books and records and reports, and other administrative departments. The Business Manager shall be directly responsible to, and under direction of and in close cooperation with the President, with whose knowledge and consent all important or out-of-the-ordinary decisions or policies shall be made.

(2) An Office Manager, under direction of the Business Manager, who shall supervise the routine of the general office, maintaining and checking the mailing list and addressing machine system, mimeographing, mailing of requested literature, booklets, the *PLAIN TRUTH* magazine, etc.

(3) An Auditor, in supervision of auditing and bookkeeping department, who shall audit all financial records of The RADIO CHURCH OF GOD and its auxiliary organizations or institutions at least once each year, and report to the President, the Secretary-Treasurer, and the Board of of Directors, their true financial condition. He shall have access to all records of monies received and of expenditures and amounts, payable at all times. He shall act also as adviser and counsellor in the financial affairs of the Church.

(4) An Executive Secretary, serving as personal secretary to the President.

(5) A Financial Secretary, who shall be manager of the mail opening department, and, in supervision over trusted, trained and qualified secretaries, shall be responsible for the opening of mail, receiving of all monies, and turning of these monies promptly over to the executive secretary or auditor or whomsoever the Business Manager shall direct for entering in records and banking. It shall be the further duty of the Financial Secretary's office to carefully read all incoming mail, channelling each piece into the proper department or office for attention and reply; marking carefully what special literature is requested or, in judgment of secretary, would be helpful.

(6) Manager of Printing Department, in supervision over printing of booklets, bulletins; letters, letterheads, envelopes and other literature.

(7) Manager Recording Department, who shall be in charge of radio studio control room and whose duties are to make all recordings of radio programs by electrical transcription for broadcast, packaging and air-expressing same to various radio stations; keeping careful records of all transcribed programs sent to each station; and maintenance continually in best condition of all radio and recording equipment.

(8) Superintendent of Buildings and Grounds, who shall be directly responsible Business Manager who in turn is responsible to the President of the College for maintenance and repair of buildings, new construction supervision, supervision over all janitor work; also for supervision and maintenance of all grounds, lawns, trees, shrubs, hedge, etc., and any new installation thereof or landscaping. No new building construction or landscape installation may be contracted for, however, or undertaken, unless ordered by Business Manager with consent of the President of the College and approval of the Board of Directors.

ARTICLE XII
INDEMNIFICATION OF OFFICERS AND DIRECTORS

Every person who serves as a director, officer, or employee of the corporation, and every person who serves at the written request of the corporation (or at its oral request subsequently confirmed in writing) as a director, officer, or employee of another business, whether or not incorporated, in which the corporation owns a proprietary interest, may, in the discretion of the Board of Directors, be indemnified and held harmless by the corporation from and against any loss, cost, liability, or expense that may be imposed on or incurred by him in connection with or resulting from any claim, action, suit, or proceeding, civil or criminal, in which he may become a party or otherwise involved because

of his being or having been a director, officer, or employee of the corporation, or of the other business in which the corporation may own a proprietary interest, whether or not he has this relationship when the loss, cost, liability, or expense was imposed or incurred. The phrase "loss, cost, liability, or expense" shall include all expenses incurred in defense of the claim, action, suit, or proceeding and the amounts of judgments, fines, or penalties levied or rendered against the indemnified person, provided that no person shall be entitled to indemnity under this section unless the Board of Directors determines that he was acting in good faith and within what he reasonably believed to be the scope of his employment or authority and for a purpose that he reasonably believed to be in the corporation's best interest. The determination of the Board of Directors shall be within its sole and subjective discretion and its decision shall be final. Payments authorized under this section shall include amounts paid and expenses incurred in settling the claim, action, suit, or proceeding, whether actually begun or only threatened. Expenses incurred with respect to a claim, action, suit, or proceeding indemnified against under this section may be advanced by the corporation before final disposition of the matter. This right of indemnification shall not affect any other rights to which any person may otherwise be entitled by law or contract.

* * * * *

This CONSTITUTION has been recommended by the Pastor, and approved by the majority of the members present at this annual meeting, this 24th day of October, 1948.

(Signed) HERBERT W. ARMSTRONG
Pastor and President of corporation

(Signed) LOMA D. ARMSTRONG
Vice-president

(Signed) ESTHER OLSON
Secretary-treasurer
(Signed) BASIL WOLVERTON
Elder and Director
(Signed) D.T. HENION
Deacon and Director
(Signed) JAMES A. GOTT
Deacon and Director

APPENDIX D.

Excerpts From Declarations and Exhibits in Support of Ex Parte Application for Temporary Receiver, Filed January 2, 1979 in Los Angeles Superior Court.

DECLARATION OF HILLEL CHODOS

I, HILLEL CHODOS, hereby declare as follows:

1. I am one of the attorneys for the relators in the within action. I make this declaration in support of the ex parte application for appointment of a temporary receiver, temporary restraining order, and order to show cause.

I have personally discussed this matter with the Hon. Steven S. Weisman, a retired judge of this court, in order to ascertain whether he would be willing and able to act as receiver if appointed by this Court. Judge Weisman has told me that he is willing and able to do so.

2. I have practiced law for approximately seventeen years. I specialize in business and corporate litigation and in trial in appellate courts. Much of my practice relates to cases of business and commercial fraud involving large amounts of money and large corporate enterprises.

3. I have personally interviewed all of the declarants whose declarations are filed in support of the within application. I have also reviewed the materials they have furnished to me. These materials strongly suggest that the Church may have substantial claims against the individual defendants and other persons for improper diversion and misappropriation of church funds. They also suggest strongly that the Church has ample legal grounds for avoiding the consummation of a proposed sale of its major asset in Big Sandy, Texas. However, based on my experience in litigation, it is my opinion that the ascertainment and pursuit of those claims will be greatly facilitated if the records of the Church are fully preserved and available to the counsel

charged with doing so; and that their ascertainment and prosecution will be rendered much more difficult if any substantial segment of the records has been destroyed. It is therefore of the utmost importance to the ultimate enforcement and protection of the charitable trust that whatever records remain in existence be preserved from removal or destruction.

4. It now appears that a proposed sale of the Big Sandy facility will close on January 4, unless orders are made which will prevent the closing. Based on my experience in business litigation, including many real estate matters, it is my opinion that the legal difficulty and expense involved in setting aside a consummated sale would be much greater than that involved in avoiding the consummation of the transaction before it is complete.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of December in Beverly Hills, California.

/s/ Hillel Chodos
HILLEL CHODOS

DECLARATION OF HUGH JOHN GIBSON

I, HUGH JOHN GIBSON, declare as follows:

1. I am one of the attorneys for plaintiff and relators in the within action. I make this declaration in support of the plaintiffs' application for appointment of a receiver and a temporary restraining order, and for a receiver and an injunction pendente lite.

2. During approximately the last two weeks, I have been furnished by certain of the relators with various written material and information pertaining to the Worldwide Church of God, Inc. and its associated corporations. I have reviewed and analysed those materials, and have pursued certain additional inquiries and investigations. The following facts appear (among numerous other facts) in said materials and are pertinent to this proceeding; and may be briefly summarized for the Court's convenience as follows.

3. Attached hereto, marked Exhibit A, is a copy of the "Pastor's Report" published by the Worldwide Church of God on August 14, 1978. At pages 4-7, the report contains a personal message from Stanley Rader. In it he explains he is employed by the Church under an arrangement made between him and Herbert W. Armstrong that "whatever it took to meet my financial requirements would be provided." He acknowledges that he arranged for the lease-financing of a Falcon aircraft for use by Church executives; that "after careful consideration and much discussion with all parties, it was agreed that the financial arrangements were equitable for all parties and that my participation would not be in conflict with the Church or any professional responsibilities that I might have had as a result of my relationship to the Work as a lawyer and as an advisor to Mr. Armstrong;" and that the arrangement provides for the Church to indemnify him from any tax loss he might suffer in connection

with it, which indemnification was in the process of being calculated as of the date of the report. Mr. Rader also admits that for many years he was the owner of an advertising agency which handled all of the Church's radio and television time buying activities on a commission basis [Mr. Rader claims in the report that he divested himself of any and all interest in the advertising agency in 1975; but as appears more fully below that claim is highly questionable]. Mr. Rader also admits that the Church purchased and maintained a home for him in Beverly Hills [recently sold by him personally for $1,800,000, as explained more fully below]. Mr. Rader claims that all of this remuneration was approved by Herbert W. Armstrong, who allegedly felt and feels that he has been "a servant worthy of his hire."

4. The current edition of Martindale-Hubbell lists Mr. Rader and his law firm, Rader, Helge and Gerson. In addition to the official listing, the directory contains a paid listing for the law firm, setting forth biographical information concerning its members and other information. A copy of this paid listing is attached hereto marked Exhibit B. It lists Mr. Rader as a lawyer and also indicates that he is a certified public accountant. Among the representative clients of the law firm are included Ambassador College, Worldwide Church of God, Ambassador International Cultural Foundation, and Worldwide Advertising, Inc. Worldwide Advertising is the advertising firm Mr. Rader formed to handle the Church's time buying programs, and in which he allegedly divested himself of any interest in 1975.

5. A review of current telephone directories reveals that Mr. Rader maintains law offices at 10100 Santa Monica Boulevard, telephone number (213) 552-1717. Worldwide Advertising, Inc. is listed in the telephone directory at the same address and phone number. Also listed at the same address and phone number are Henry F. Cornwall, C.P.A.

and Gateway Publishing, Inc. The accounting firm of Rader, Cornwall and Kessler, and W. Jack Kessler, C.P.A., are listed with offices at 10100 Santa Monica Boulevard and a telephone number of 553-6958.

6. Attached hereto marked Exhibit C, is a Dun & Bradstreet report on the Worldwide Church of God, Inc., dated July 18, 1978. This report lists Herbert W. Armstrong as president; Stanley R. Rader as treasurer; and Ralph Helge (Rader's law partner) as secretary; and states that the three officers are the directors. It also states that Armstrong, Rader and Helge hold identical offices in Ambassador College, Inc.

7. Attached hereto, marked Exhibit D, is a Dun & Bradstreet report dated September 28, 1978 on Ambassador International Cultural Foundation, Inc. Messrs. Armstrong, Rader and Helge are listed as the president, executive vice president and secretary; and Henry Cornwall (Rader's other accounting partner) is treasurer.

8. I have examined the "Pastor General Department, Report of Expenditures" for July 1, 1975 through June 30, 1976, which is attached to the Declaration of Mr. Chapman as Exhibit B. This report lists a total of $2,031,643 expenditures by the Church during this period, consisting principally of items characterised as "travel and lodging" [$889,485] and "public relations" [$819,346]. The itemized breakdown shows repeated expenditure for luxury items such as meals at Perino's or La Scala, limousine service, and the like. Typical of these items are bills incurred by Rader at Perino's on February 28, 1976 ($272.34) and at La Scala on March 12, March 18 and March 19 ($125.00; $202.71 and $102.18 respectively). Other items which appear repeatedly throughout the itemized list are charges at Hermes in Paris (a luxury store with a branch on Rodeo Drive), Gucci (a similar establishment), Christian Dior,

Cartier, and so on. Another category of items which frequently appears relates to charges to the Church, as executive expenditures by Osamu Gotoh for cameras and accessories: by way of example only, between June and September of 1975, he is listed as having purchased over a dozen cameras and related equipment from various photography stores for over $10,000.

9. In addition to ongoing and enormous expenditures of this character, the report also lists travel expenditures of bizarre and exorbitant amounts. Typical items are:

8/8/75 American Express-Gotoh	
Hotel Plaza Athenee, Paris (no backup)	$12,416.93
8/31/75 American Express-Gotoh	
Imperial Hotel, Tokyo (no backup)	$13,735.74
9/12/75 American Express-Gotoh	
Munich, Germany	$12,504.59
9/11/75 Diners Club-Rader	
Hotel Plaza Athenee, Paris	$12,049.39

Between October 23 and November 1, 1975, Gotoh made four charges to the Church's American Express card at the Plaza Athenee totaling over $44,000; and a week later, he billed another $8,580.29 to the Church for a stay at the Imperial Hotel in Tokyo. On February 25, 1976, Rader made nine separate charges to the Church's Diners Club card at the Jerusalem Hilton, amounting to more than $10,000.

I have also examined the monthly executive expense analysis of March 3, 1978, attached to the Declaration of Mr. Timmons as Exhibit C. This report reveals that the type of expenditure shown in the 1975-1976 report is continuing to more recent times. The analysis includes a bill by Rader at the Plaza Athenee in Paris for $22,571.19; a bill for Henry Cornwall at the Imperial Hotel in Tokyo for $22,-

925.56; and charges at La Scala ($694.78), Harrod's ($281.98) and the like.

The report for March 3, 1978 also reveals additional major expenditures of significance. During the period reflected by that report, the Church incurred $13,166.90 for Rader's home in Beverly Hills, including utilities, property tax, landscaping, expense allowance and mortgage payment. During the same month, the Church incurred an additional $10,591.17 to furnish and maintain Rader's home in Tucson.

10. Despite the fact that the Church paid for the Beverly Hills home, including taxes and maintenance, Rader and his wife held personal title to the property until they sold it in July of 1978 to Erwin and Margo Winkler. A certified copy of the Raders' grant deed to the Winklers is attached hereto marked Exhibit E. The documentary transfer tax is listed as $1,980, computed on the full value of the property conveyed, signifying (at $.55 per $500) a sale price of $1,800,000.

11. Shortly after selling the Beverly Hills home and pocketing the money, Rader and his wife purchased a home in Pasadena from Ambassador College for an apparent purchase price (based on transfer tax) of $225,000. The Church took back a note and trust deed for $152,500 of the purchase price. Certified copies of the grant deed and the deed of trust given back are attached hereto, collectively marked Exhibit F.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of December, 1978, at Beverly Hills, California.

/s/ Hugh John Gibson
HUGH JOHN GIBSON

Excerpts From Exhibit A to Declaration of Hugh John Gibson: Pastor's Report.

Where Are We Now In the Panorama of
Prophesied World Events?

by Herbert W. Armstrong

The DEATH of Pope Paul VI may trigger a drastic change in world events. This change could plunge the world into the most terrifying crisis ever experienced by man.

But I hasten to add that if this catastrophic World War III does explode, that will be the definite ASSURANCE that WORLD PEACE in the utopian WORLD TOMORROW—is imminently to follow.

I would rather picture to our readers a future of WORLD HOPE, than of horrifying world disaster. But we live in a troubled world with unprecedented evils piled mountain-high. And the *trend* is foreboding—not reassuring. It will get *darker* before the DAWN. The important thing is that the DAWN is absolutely *assured* by the living Creator GOD!

Some twenty years ago, before Pope John XXIII was elected, I had wondered if the Pope then being selected by the College of Cardinals would be the one who would propose his good offices to the nations of Europe to achieve political, monetary, and military union. European nations have longed for some sort of UNITY. They want not only economic union, as they have achieved by the "Common Market," they fear the communist hordes—and especially if the U.S.S.R. and the Peoples Republic of CHINA ever get together.

United now—since World War II—the Europeans have had to rely on the United States military power to protect them from further encroachments or nuclear attack from the Soviet Union.

Back during the final days of World War II, I was giving a commentary on the war news daily on the World To-

morrow radio program. We came to a point where the final coup de grace was expected hourly to be rendered on Germany by the Allies. But the Western Allies could not inflict that final death-blow until the Russians ended their part of the war in the eastern sector.

Day after day, hour after hour, we waited. But the Russians were in no hurry to END the war. They continued on, until they had taken over Latvia, Estonia and Lithuania—and until the Russian boot had been firmly planted on all Eastern Europe—including Eastern Germany. All these became the "satellite countries." They are spoken of as behind the "Iron Curtain."

All who know communist beliefs, aims and tactics, know that they are committed to waging this war, by propaganda, by infiltration and fifth-column tactics, by sabotage and guerilla warfare—and, when necessary, finally by open all-out nuclear war. The Soviet Union maintains a very huge standing army. The Soviet Union competes on a virtual parity with the U.S.A., as the world's two superpowers in military strength.

And the Europeans are *right on their border*. They know how communism did prove the "domino theory" correct in Viet Nam. They not only continued on from North Viet Nam to conquer South Viet Nam—even with full U.S.A. participation with its military force—but then quickly Cambodia and Laos fell. And, next in the "domino falldown" is to come Thailand, Burma, Malasia. Singapore a few years ago successfully stopped a threatened communist take-over—but now they are in the "domino" orbit.

The Europeans are far more disturbed about their safety in relying on United States military power to protect them than Americans realize! The United States is *not* loved in Europe. European confidence in U.S. protection against their next-door communist neighbor has been lessening and lessening.

EUROPEANS WANT THEIR OWN UNITED MILITARY POWER! They know that a political union of Europe would produce a THIRD MAJOR WORLD POWER, as strong as either the U.S. or the U.S.S.R.—*possibly stronger*!

They have made a real effort toward union, in the Common Market. It has made them economically strong. United they could become stronger economically than the United States. The dollar continues dropping in European and Japanese markets—and especially the German MARK has soared stronger and stronger!

But they well know there is but ONE POSSIBILITY of union of Europe—and that is through the Vatican.

Two leaders in Europe produced, a few years ago, two different plans for union. The former Archduke Otto von Hapsburg of Austria, and the "strong man of Europe," Dr. Franz-Josef Strauss of Munich. I know the latter well. He has been a dinner guest in my home.

Five years ago I felt, personally, that the more likely plan that might come to fruition was that of the former Archduke of Hapsburg, but the most likely man to HEAD such a union was Franz-Josef Strauss. However, we all become a year older every year, and there has been so much delay that a younger man may now head up such a European union.

As I said before, when Pope John XXIII was in process of election, I felt that the Pope elected might be the one who would make available his good offices to help political leaders of Europe bring about their hoped for union. But at once it became evident that Pope John had other ideas. He started the Ecumenical Movement, to bring about a different kind of union—a Church union between Protestants, Eastern Orthodox Catholics, and the Roman Catholics.

Then fifteen years ago, I thought Pope Paul might be the one to lead in this European political union. But the resurrection of the old "Holy Roman Empire" was again delayed. Pope Paul continued with Pope John's ecumenical union project. But that was not to be accomplished.

* * * * *

PERSONAL FROM STANLEY R. RADER

There has been a systematic effort to destroy the reputations of Mr. Herbert W. Armstrong and those closet to him. This effort was spear-headed by Garner Ted Armstrong, but aided and abetted by those seeking favor with him. Mr. Armstrong has written and spoken about this during the past few months, and I am certain that you will recall similar efforts on his part to correct the problem during the past several years.

Although my *record of performance* is well known and well documented, there has nonetheless been a conspiracy to place a *cloud* over it, and to impune my *character*, my *reputation* and my professional *integrity*. My financial arrangements with the Church, matters which are of record and known to all parties with the right to know them, have been falsely distorted and made to appear wrongful. Accordingly, I am taking this opportunity to share the record with you in order to put to rest once and for all the speculations and misapprehensions in this area.

When I first met Mr. Armstrong the Work was very small—the total gross revenues from all sources was less than $800,000 annually. Mr. Armstrong soon learned that he could *rely* on me to get *problems* solved—problems that were not being solved by others for whatever reasons. He asked me to represent the Work on a retainer basis. We agreed that the Work would prosper, and in time I would be compensated in accordance with the scriptural principle that "*a servant is worthy of his hire*." I had great faith in the Work and in Mr. Armstrong and I threw myself into

my responsibilities with the zeal and energy necessary to get the job done—with little regard to my compensation.

By 1969, I had helped Mr. Armstrong in many ways and we had come to love one another very much. We had a very special relationship which I shall always cherish as will my wife and my children. I was still very successful on two other fronts—in my law practice and in my public accounting practice. At that time, however, Mr. Armstrong and Mr. Portune asked me to come into the Work "*a little more*" by giving up all other professional activities that required my own commitment of time and energy. We agreed and, from that time forward, I devoted all my time, talent and energy to Mr. Armstrong and the Work. We agreed that whatever it took to meet my financial requirements would be provided.

Prior to 1969 the only financial dealings that I had with the Work were for the payment of my professional services, with one exception. At Mr. Armstrong's specific request in 1967, I managed to arrange for the financing of the first Falcon aircraft after all other attempts to do so by Mr. Portune and his colleagues in the business office had been unsuccessful. The only way that I was able to provide the financing for the completion of the purchase of the falcon from Pan American Airways was to arrange a tripartite agreement between Mid-Atlantic Leasing, Pan American Airways and the Church. Mid-Atlantic Leasing was a partnership which was formed for the transaction. The partnership was willing to act as the lessor *if* it would be guaranteed certain *tax shelter benefits*. Furthermore, since it was impossible for a partnership to be assured of the Church's credit-worthiness, the partnership required that 1) I take part in the transaction and that 2) I indemnify each of the other partners in the event of the Church's default in any material respect.

After careful consideration and much discussion with all parties, it was agreed that the financial arrangements were equitable for all parties and that my participation would not be in conflict with the Church or any professional responsibilities that I might have had as a result of my relationship to the Work as a lawyer and as an advisor to Mr. Armstrong.

At that time, it was also clearly foreseeable that at the termination of the lease the provisions of the tax law would result in a definite tax loss for me. The Church agreed to indemnify me from such loss if, in fact, it were to occur. In July 1977, the lease was terminated, but well in advance of the termination date provided for in the lease agreement. Accordingly, I am now in the process of calculating the actual economic loss that I have suffered as a result of the transaction that began in 1967.

In the fall of 1969, Mr. Armstrong decided to terminate the services of his advertising agency, M. B. Scott, Inc., and he determined that it would be in the best interest of the Work that the time-buying function be transferred to an agency that would be *more* under the control of the Work. Mr. Armstrong and Mr. Portune were both aware of my vast background and experience in the advertising field as a result of my contact over the years with Mr. Scott and other advertising agencies, as well as my broad overview of the entire communications field as a result of my law practice. Hence I was asked to form an Advertising Agency and to limit its activities to representation of the work.

From the late fall of 1969 until March 1975 when I was baptized, I was the president of Worldwide Advertising Inc., although several years prior to that time I had delegated away most of the day-by-day operation. During the years 1969 through 1975, copies of the Worldwide Advertising income tax returns were made available to Mr. Portune and my remunneration to Worldwide Advertising was, of

course, included as an important item on those tax returns. In 1975, upon my baptism, and of course after becoming a diretor and an officer of the church and the college, it was necessary for me to divest myself of any and all interest in Worldwide Advertising.

Prior to 1971, I never lived in a faculty or college home. Although Mr. Armstrong, and others thought it would be better for me to live in the Pasadena area, my wife was unwilling to make the move from Beverly Hills and hence we did not. In 1971, however, it became clear to Mr. Armstrong, to Mr. Portune and to me that there would be benefits of a substantial nature to the Work if I were to be able to undertake the responsibility of seeing to the needs of the very important overseas visitors that were coming to California at Mr. Armstrong's invitation, and also to maintain a residence that would lend itself to the type of formal and large scale receptions also necessary to fulfill the various responsibilities of the Work as a result of its ever-increasing activities throughout the World.

Accordingly, a more appropriate home was found in Beverly that was, in Mr. Armstrong's opinion, the perfect residence for such activities. We did not feel, however, that it would be possible for me to live in such a residence on a tax-free basis as did our ministers and faculty members. Hence, we agreed that I would purchase the home. Financing would be arranged with the help of the Church and my remuneration would be adequate to cover the increased costs.

For many, many years Mr. Armstrong has stated on more than one occasion that I am the highest-paid individual in the Church. This fact is well known to responsible persons at Headquarters. Whether I should be the most highly-paid person in the Work, of course, is something for Mr. Armstrong, as Christ's apostle, to decide. I do not feel, however,

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General Civil Practice
Administrative, Constitutional, Civil Rights, Corporate, Copyright, Immigration and Nationality, College and University Law
Trials and Appeals

RADER, HELGE & GERSON

SUITE 540, GROSVENOR PLAZA
150 SOUTH LOS ROBLES AVENUE
PASADENA, CALIFORNIA 91101

Telephone:
(213) 577-5380

Los Angeles Office: Suite 1330, 10100 Santa Monica Boulevard
Telephone: (213) 552-1717

MEMBERS OF FIRM

Stanley R. Rader, born White Plains, New York, August 13, 1930; admitted to bar, 1964, California; 1969, U.S. Supreme Court. Preparatory education, St. Lawrence University (A.A., 1949) and University of California at Los Angeles (B.S., 1951); legal education, University of Southern California (J.D., 1963). *Fraternities:* Order of the Coif; Phi Alpha Delta; Phi Kappa Phi. Certified Public Accountant, California, 1954. Lecturer, University of Southern California, Contracts and Introduction to Law, 1963-1965. Trustee: Los Angeles Ballet Society, 1977—; Fonds Leopold, III, Belgium, 1977—. Ambassador: International Cultural Foundation, California and Tokyo, Japan, 1977—. Director, Arthur Rubenstein International Competition, 1977—. *Member:* Beverly Hills, Los Angeles County and American Bar Associations; State Bar of California; American Institute of Certified Public Accountants; California Society of Certified Public Accountants; Association of Attorneys and CPA's.

Ralph K. Helge, born Chicago, Illinois, February 19, 1929; admitted to bar, 1954, Illinois; 1961, California; 1964, U.S. Court of Appeals, Seventh Circuit; 1966, U.S. Court of Appeals, Ninth Circuit; 1970, U.S. Court of Appeals, Fifth Circuit; 1971, U.S. Supreme Court; 1975, U.S. Court of Appeals, Tenth Circuit. Preparatory education, Northwestern University and Woodrow Wilson College; legal education, DePaul University (J.D., 1954) and University of Southern California. Business Manager, DePaul Law Review, 1951-1952. Recipient, American Jurisprudence Award, Contracts. Appeal Agent, Selective Service System, 1964-1970. Contributor and Advisor, "Recommendations Relating to Nonprofit Corporation Law," California Law Revision Commission, November, 1976. *Member:* Los Angeles County Bar Association; State Bar of California; The Association of Trial Lawyers of America.

Morton M. Gerson, born Los Angeles, California, March 15, 1934; admitted to bar, 1959, California. Preparatory education, University of California at Los Angeles (B.A., 1955); legal education, University of Southern California (LL.B., 1958). *Fraternity:* Phi Alpha Delta. Director, Ambassador International Cultural Foundation, 1975—. *Member:* Beverly Hills and Los Angeles County Bar Associations; State Bar of California.

REPRESENTATIVE CLIENTS: Ambassador College, Pasadena, California; World Wide Church of God; Ambassador International Cultural Foundation; World Wide Advertising, Inc.; Superior Meat Co.; W & J Sloane of Beverly Hills, Inc.; Modern Office Supply Co., Inc.; Zenith Travel Service, Inc.

General Civil Practice
Probate and Family Law

R. P. REDDINGIUS

SUITE 202, 234 EAST COLORADO BOULEVARD
PASADENA, CALIFORNIA 91101

Telephones:
(213) 795-2117
681-5043

Robert P. Reddingius, born Minneapolis, Minnesota, June 4, 1920; admitted to bar, 1951, California. Preparatory education, University of California at Berkeley (B.A., 1943); legal education, Hastings College of Law, University of California (J.D., 1950). *Fraternity:* Delta Theta Phi. Licensed Real Estate Broker, California, 1962. *Member:* Pasadena and Los Angeles County Bar Associations; State Bar of California. [Capt., U.S. Marine Corps, 1943-1946]

REFERENCE: Security Pacific National Bank (Main Office).

GIBSON B

38

General Civil Practice
Administrative, Constitutional, Civil Rights, Corporate, Copyright, Immigration and Nationality, College and University Law
Trials and Appeals

RADER, HELGE & GERSON

SUITE 540, GROSVENOR PLAZA
150 SOUTH LOS ROBLES AVENUE
PASADENA, CALIFORNIA 91101

Telephone:
(213) 577-5380

Los Angeles Office: Suite 1330, 10100 Santa Monica Boulevard
Telephone: (213) 552-1717

MEMBERS OF FIRM

Stanley R. Rader, born White Plains, New York, August 13, 1930; admitted to bar, 1964, California; 1969, U.S. Supreme Court. Preparatory education, St. Lawrence University (A.A., 1949) and University of California at Los Angeles (B.S., 1951); legal education, University of Southern California (J.D., 1963). *Fraternities:* Order of the Coif; Phi Alpha Delta; Phi Kappa Phi. Certified Public Accountant, California, 1954. Lecturer, University of Southern California, Contracts and Introduction to Law, 1963-1965. Trustee: Los Angeles Ballet Society, 1977—; Fonds Leopold, III, Belgium, 1977—. Ambassador: International Cultural Foundation, California and Tokyo, Japan, 1977—. Director, Arthur Rubenstein International Competition, 1977—. *Member:* Beverly Hills, Los Angeles County and American Bar Associations; State Bar of California; American Institute of Certified Public Accountants; California Society of Certified Public Accountants; Association of Attorneys and CPA's.

Ralph K. Helge, born Chicago, Illinois, February 19, 1929; admitted to bar, 1954, Illinois; 1961, California; 1964, U.S. Court of Appeals, Seventh Circuit; 1966, U.S. Court of Appeals, Ninth Circuit; 1970, U.S. Court of Appeals, Fifth Circuit; 1971, U.S. Supreme Court; 1975, U.S. Court of Appeals, Tenth Circuit. Preparatory education, Northwestern University and Wilson College; legal education, DePaul University (J.D., 1954) and University of Southern California, Business Manager, DePaul Law Review, 1953-1952. Recipient, American Jurisprudence Award, Contracts. Appeal Agent, Selective Service System, 1964-1970. Contributor and Advisor, "Recommendations Relating to Nonprofit Corporation Law," California Law Revision Commission, November, 1976. *Member:* Los Angeles County Bar Association; State Bar of California; The Association of Trial Lawyers of America.

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General Civil Practice
Probate and Family Law

R. P. REDDINGIUS

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REFERENCE: Security Pacific National Bank (Main Office).

GIBSON B

38A

FULL REVISION

DUNS: 04-646-2487
WORLD WIDE CHURCH OF GOD INC

BOX 111
300 W GREEN ST
PASADENA CA 91105
TEL 213 577-5248

JUL 18 1978

SIC NOS.
86 61

SUMMARY
RATING ER2

STARTED 1947
PAYMENTS SEE BELOW
EMPLOYS 746
HISTORY INCOMPLETE

HERBERT W ARMSTRONG, PRES

SPECIAL EVENTS: New officers: Stanley R Rader, treasurer and Ralph Helge, secretary.

PAYMENTS (Amounts may be rounded to nearest figure in prescribed ranges)

REPORTED	PAYING RECORD	HIGH CREDIT	NOW OWES	PAST DUE	SELLING TERMS	LAST SALE WITHIN
7/78	Ppt		-0-	-0-		
	Ppt-Slow 45	30000	5000	2500	N30	1 Mo
6/78	Slow 45		-0-	-0-		
	(4)	1000	-0-	-0-		
	(5)	100	-0-	-0-		
5/78	Ppt	250	-0-	-0-		2-3 Mos
3/78	Disc	1000	-0-	-0-	2 10 EOM	
1/78	Ppt	2500	2500		Regular terms	
12/77	Disc	100	-0-	-0-		
11/77	Ppt-Slow 30	7500	-0-	-0-		
	(11)	500	-0-	-0-	N30	
10/77	Ppt	60000	30000	5000	N30	1 Mo
	Ppt	500	250	-0-	N30	1 Mo
	Ppt		-0-	-0-	N30	2-3 Mos
	Slow 15	250	-0-	-0-	N30	1 Mo

On 07/18/78 management uavailable for comment.

FINANCE

On Jul 18 1978 principals were absent. Ellen Smith, secretary, declined financial information.

HISTORY

HERBERT W ARMSTONG, PRES RALPH HELGE, SEC
STANLEY R RADER, TREAS
DIRECTORS: The officers

Non-profit organization chartered in California Feb 20 1947. Later changed name by charter amendment from Radio Church of God (Inc).

Organized for the purposes of conducting churches throughout the U S. Closely affiliated with Ambassador College (Inc), a non -profit organization operating liberal arts school for training in church work.

Dec 31 1973 current assets $7,503,566; total assets $75,446,382; current liabilities $5,484,114; deferred liabilities $15,141,743; and net worth of $54,507,049 and good commercial condition. Inter company relations not learned.

Above officers hold identical officers there.

HERBERT W ARMSTONG born 1896, married. 1925 to 1933 active in advertsing line. In 1936 established the Church of God in Portland, Oregon. Operations expanded with Armstrong operating at Eugene, Oregon, as Radio Church of God. The business subsequently moved to Pasadena, Ca, in 1947 corporation succeeded.

STANLEY R RADER is treasurer of Ambassador College. In 1976 he succeeded Frank Brown as secretary and treasurer.

OPERATION

A non profit organization operating many churches throughout the U S and the World with most facilities for church services and buildings rented with the exception of church on West 8th St, Eugene, Oregon and Big Sandy, Texas, although corporation owns other real estate throughout the World.

EMPLOYEES: 746. Organization is maintained through contributions and gifts.

LOCATION: Headquarters are located with Ambassador College on the floor of modern four story concrete building on secondary commercial street in close-in residential

(CONTINUED)

THIS REPORT FURNISHED PURSUANT TO CONTRACT FOR THE EXCLUSIVE USE OF THE SUBSCRIBER AS ONE FACTOR TO CONSIDER IN CONNECTION WITH CREDIT, INSURANCE, MARKETING OR OTHER BUSINESS DECISIONS, CONTAINS INFORMATION COMPILED FROM SOURCES WHICH DUN & BRADSTREET, INC. DOES NOT CONTROL AND WHOSE INFORMATION, UNLESS OTHERWISE INDICATED IN THE REPORT, HAS NOT BEEN VERIFIED. IN FURNISHING THIS REPORT, DUN & BRADSTREET, INC. IN NO WAY ASSUMES ANY PART OF THE USER'S BUSINESS RISK, DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE INFORMATION PROVIDED, AND SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY WHATEVER RESULTING FROM CONTINGENCIES BEYOND ITS CONTROL OR FROM NEGLIGENCE. 9R2-40 (780128)

GIBSON C

OPERATION
(Cont'd) and business area. Building in normal repair. Premises attractive. BRANCHES: At West 8th St, Eugene, Oregon, Big Sandy, Texas. 321-408 Granville, Vancouver, British Columbia, at Osage Beach, Missouri and at Mount Pocono, Pennsylvania, 18344. P O Box 555, and at P O Box 111., Dells, Wisconsin.
09-20(825 /905)0000/00 10314 053

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0636

FULL REVISION

DUNS: 07-065-0865
AMBASSADOR INTERNATIONAL
CULTURAL FOUNDATION (INC)

300 W GREEN ST
PASADENA CA 91105
TEL 213 577-5440

SEP 28 1978

CULTURAL
ORGANIZATION

SIC NOS.
79 99

RATING EE5

STARTED 1975
PAYMENTS SEE BELOW
EMPLOYS 20
HISTORY INCOMPLETE

HERBERT ARMSTRONG, PRES

SPECIAL EVENTS: Present control succeeded Aug 31 1978.

PAYMENTS (Amounts may be rounded to nearest figure in prescribed ranges)

REPORTED	PAYING RECORD	HIGH CREDIT	NOW OWES	PAST DUE	SELLING TERMS	LAST SA WITHI
5/78	Ppt	50	50	-0-		1 Mo

FINANCE

On Sep 28 1978 Mrs Crossen, secretary, deferred financial statement.

HISTORY

HERBERT ARMSTRONG, PRES

STANLEY RADER, EX VPRES
RALPH HELGE, SEC

ROBERT KUHN, V PRES FOR PROFORMING ARTS
HENRY CORNWALL, TREAS

DIRECTORS: The officers and Ramona Armstrong, C Wayne Cole.

Incorporated California Mar 14 1975 as a non profit organization. Incorprating directors Grover T Armstrong, Robert Kahn and Ralph Helge.

HERBERT W ARMSTRONG born 1896 married. 1925-33 active in advertizing line. 1936 established the chruch of God in Portland, Oregon. Operations expanded with Armstrong operating at Eugene, Oregon, as radio church.

STANLEY R RADER. Treasurer of Ambassador College. 1973 he succeeded Frank Br. as secretary.

ROBERT KUHN. Presently with Ambassador College as professor.

HENRY CORNWELL. Currently with world wide advertizing in Century City.

C Wayne Cole, trustee for Ambassador College also director for Pastoral Administration at World Wide Church of God.

OPERATION

Provides social functions such as concerts and lectures. Also publishes magazi known as "The Quest" which is reported to be small portion of total income.

EMPLOYEES: Employs 20 plus including officers.

FACILITIES: Shares office with Ambassador College on third floor in four story mod concrete building on secondary commercial street.

10-06(826 /917)4370/03 10314 053

THIS REPORT, FURNISHED PURSUANT TO CONTRACT FOR THE EXCLUSIVE USE OF THE SUBSCRIBER AS ONE FACTOR TO CONSIDER IN CONNECTION WITH CR INSURANCE MARKETING OR OTHER BUSINESS DECISIONS, CONTAINS INFORMATION COMPILED FROM SOURCES WHICH DUN & BRADSTREET, INC. DOES NOT CONTROL WHOSE INFORMATION UNLESS OTHERWISE INDICATED IN THE REPORT, HAS NOT BEEN VERIFIED. IN FURNISHING THIS REPORT, DUN & BRADSTREET, INC. IN NO ASSUMES ANY PART OF THE USER'S BUSINESS RISK, DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE INFORMATION PROVIDED SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY WHATEVER RESULTING FROM CONTINGENCIES BEYOND ITS CONTROL OR FROM NEGLIGENCE

GIBSON D

Loma Vista Drive

ADDRESS GIVEN ABOVE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Individual Grant Deed

THIS FORM FURNISHED BY TICOR TITLE INSURANCE

A.P.N.

The undersigned grantor(s) declare(s):
Documentary transfer tax is $ 1,980.00
(X) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale.
( ) Unincorporated area: (X) City of BEVERLY HILLS, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

STANLEY R. RADER AND NATALIE RADER, husband and wife,

hereby GRANT(S) to

IRWIN WINKLER AND MARGO WINKLER, husband and wife, as their community property,

the following described real property in the CITY OF BEVERLY HILLS,
County of LOS ANGELES, State of California:

Lot 30 of Tract No. 7447, as per map recorded in Book 86, Page 6 of Maps, in the office of the County Recorder of said County.

EXCEPTING from said Lot that portion thereof, described as follows:

Beginning at most Northerly corner of said Lot 30, the same being the Easterly line of Loma Vista Drive, as shown on Map of Tract No. 7447; thence South 75° 57' 32" East, along the Northerly line of said Lot, 160.54 feet, to Northeast corner of said Lot; thence South 10° 41' 56" West, along Easterly line of said Lot, 57.00 feet; thence South 7° 03' 40" East, along Easterly line of said Lot, 115.50 feet; thence North 43° 33' 18" West, 242.00 feet to a point on Easterly line of Loma Vista Drive, said Easterly line being a curve, concave Westerly, having a radius of 379.91 feet the radial bearing of said curve from said point being North 75° 10' 18" West; thence Northerly along said curve line, the same being the Easterly line of Loma Vista Drive, 35.00 feet to the point of beginning.

Dated June 23, 1978

Stanley R. Rader, by
Allen Browne, his Attorney-in-Fact.

Natalie Rader, by
Allen Browne, her Attorney-in-Fact.

STATE OF CALIFORNIA
COUNTY OF } ss

On before me, the undersigned, a Notary Public in and for said State, personally appeared

known to me to be the person whose name subscribed to the within instrument and acknowledged that executed the same.
WITNESS my hand and official seal.

Signature

(This area for official notarial seal)

Title Order No. 279368-R Escrow or Loan No.

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GIBSON E

42

that I should be embarrassed that Mr. Armstrong has felt that I have been a servant worthy of his hire."

I have had no other financial dealings with the Work and I have never been involved as a recipient directly or indirectly of any favor, financial or otherwise, from any person or institution that has had dealings with the Work. My reputation in the community is without blemish and I intend to keep it that way.

. . .

With Christian love,
Stan Rader

. . .

DECLARATION OF BENJAMIN CHAPMAN

1. My name is Benjamin Chapman, and my business address is Department of Theology, Ambassador College, 300 West Green Street, Pasadena, California. I am above the age of eighteen years and, if called as a witness, I could testify to the following out of my own knowledge.

2. I am making this Declaration with the understanding that it will not be used in any way for the personal financial gain of myself, or of any other individual, but for the collective good of all the members of the Worldwide Church of God, and with the hope that greater fiscal responsibility will be achieved in the Worldwide Church of God.

3. I hold a Bachelor of Science degree from UCLA in Engineering, which I earned in 1957. I also hold a Bachelor of Arts degree from Ambassador College, and a Master's degree in Theology from that same institution. I am presently employed full time as an Instructor in Theology at Ambassador College and as a Pastor in the Worldwide Church of God.

4. Richard David Armstrong, the eldest son of Herbert W. Armstrong, died in the 1950s. I married his former wife in 1961 and we have been married ever since. Because of this, I have been almost a member of Mr. Armstrong's family for many years.

5. I am presently, and I have been since 1963, a Pastor of the Worldwide Church of God. In 1963, the Church sent me and my family to Texas, where I pastored congregations in Dallas and Fort Worth. In 1964, I also became a faculty member, administrator and minister at the Big Sandy campus of Ambassador College, in Texas, and I occupied that position until 1973, when I was called to Pasadena to become the Manager of the Data-Processing Department and, later, Director of Circulation for the Church.

6. To my recollection, it was in the early part of 1974 that Mr. Herbert W. Armstrong appointed me to sit on the Board of Directors of the Worldwide Church of God, Inc., and I occupied a position on that Board for a number of months. At that time, a Mr. David John Hill was a teacher at Ambassador College and was also a member of the Board of Directors of Ambassador College, Inc. It was brought to the attention of Mr. Armstrong that a conflict of interest might exist because of Mr. Hill's dual role as an employee and director of the College, so I was asked by Mr. Armstrong to swap Board positions with Mr. Hill, and in that way I became a member of the College Board. I served in that capacity until the Spring of 1975, when I was asked by Mr. Armstrong to resign my position on the College Board.

7. To my knowledge, all members of the boards of directors of the Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., are and always have been appointed by or under the direction of Mr. Herbert W. Armstrong. Mr. Armstrong also personally approves ordination of all Church Pastors. In recent years, he has accepted recommendations from others regarding ordination.

8. During 1974 and 1975, I was employed full time as Director of Circulation for the Worldwide Church of God, Inc. My duties in that position included supervision of all the data-processing functions of the Church, and so I became familiar with a number of the reporting procedures in use in the Church at that time, especially those concerning media and literature requests and responses.

9. I have been employed full time by either the Worldwide Church of God, Inc., or Ambassador College, Inc., for over eighteen years. Because of my long and continuous association with the Church, I am familiar with Church

doctrine and practices, and with the evolution of those doctrines and practices over the last fifteen years.

10. The Church maintains a computerized data-base of all persons who either receive its literature, participate in its ecclesiastical functions, or contribute money to it. This data base supports a subscriber development system, which is one of the means by which the Work of the Church is accomplished.

11. To my knowledge, no member of the Church, regardless of the amount of frequency of his financial contributions to the Church, has ever, at any time, been asked to vote, or ever has actually voted, upon any matter concerning the governance of the Church: even upon matters which are not ecclesiastical, such as the selection of directors or the expenditure of Church funds. And despite the fact that I served on the Board of Directors of both the Church itself and the College, I myself never had an opportunity to express my personal opinion on any Church matter by means of a vote. Instead, I and the other board members were simply asked to approve decisions made by Herbert W. Armstrong or in his name. I am acquainted with members of the boards of various corporations affiliated with the Church and, to my knowledge, the role I played as a Board member of the Church and then of the College is typical of the role played by the other members of the boards involved.

12. To my knowledge, all Church funds are received from charitable contributions made to the Church. Very little of these funds is earned from income from Church investments. This has always been true and, as far as I know, continues to be true to the present day.

13. All these charitable contributions are made to the Worldwide Church of God for the purpose of furthering its

religious mission, which is referred to in the Church as "the Work". Contributions from all over the United States are received by and deposited to the bank accounts of Worldwide Church of God, Inc., Ambassador College, Inc., and Ambassador International Cultural Foundation, Inc., all in Pasadena, and all disbursements of those funds are made by those same corporations.

14. Financial reports of Church receipts and disbursements are disseminated to members of the Church from time to time, but these reports are never detailed more than a simple balance sheet and income statement, and the members of the Church do not generally have access to the records which would substantiate them. Part of the financial reporting has been done orally: Mr. Armstrong and Mr. Stanley Rader read portions of the reports to the congregations assembled to observe the Feast of Tabernacles. Some of the reporting is done in written form: a copy of one such recent report, which appeared in two separate issues of *The Good News*, is attached here as Exhibit "A".

15. I recognize the Pastor General Expense Report attached here as Exhibit "B" to be in the form customarily given to such documents in the Church. Judging from its form and content, and based on my personal knowledge of the character and magnitude of the expenditures in these categories at that time, I believe it to be what it purports to be: a copy of a report actually made within the Church; and I believe it reflects with substantial accuracy the actual expenditures borne by the Church during the time period it purports to cover. Although I am no longer a member of the Board of the Church, nor Director of Circulation, I believe that the expenditures reflected in the attached Exhibit "B" are continuing today.

16. Other reports, which were computer-generated, were regularly made and delivered to select individuals in

the Church at all times while I was Director of Circulation for the Church. I believe that those same reports, or other reports substantially similar to them, are still generated and circulated within the Church today.

17. I have known Mr. Stanley R. Rader for nearly eighteen years. I met him when we were both involved in the Work in Bricket Wood, England, in 1960.

18. Mr. Rader is presently a lawyer, and a C.P.A., and has advised and counseled Mr. Herbert W. Armstrong on Church affairs for many years. Mr. Rader became a lawyer since the time I originally met him, and ever since he became an attorney he has been, as far as I know, a member of the Bar of the State of California. Mr. Rader has effective control over and responsibility for the legal affairs of the Church, and has had this control and responsibility for several years. Recently, in his capacity as Treasurer of the Worldwide Church of God, Inc.—a post to which he was appointed some months ago—he has taken financial responsibility and control as well.

19. Mr. Herbert W. Armstrong is now eighty-six years old, and while he is still in possession of most of his faculties, he is beginning to suffer from certain of the disabilities of advanced age. Over the years, Mr. Rader has gained the confidence and trust of Mr. Armstrong to such an extent that recently, as far as I can perceive, Mr. Armstrong no longer makes important legal or financial decisions himself, and is advised or influenced by few persons other than Mr. Rader. In consequence, it appears to me that as of this date, Mr. Herbert W. Armstrong is effectively guided by Mr. Rader in all Church matters and affairs.

I declare under penalty of perjury that all the foregoing is true and correct.

PASTOR GENERAL DEPARTMENT

REPORT OF EXPENDITURES

July 1, 1975 through June 30, 1976

Prepared by

Accounting Department

July 6, 1976

CHAPMAN CO

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PASTOR GENERAL - SUMMARY OF EXPENDITURES

July 1, 1975 Through June 30, 1976

Cost Center	Description	Actual	Budget	Variance	
2-6510	Pastor General	$1,723,930	$1,260,000	$463,930	Over Budget
2-6511	P. G. Campaigns	136,374	500,000	363,626	Under Budget
2-1420	AICF tokyo	87,528	Ø	87,528	Over Budget
	Chancellor's Projects	83,811	Ø	83,811	Over Budget
		$2,031,643	$1,760,000	$271,643	Over Budget

PASTOR GENERAL - EXPENDITURES

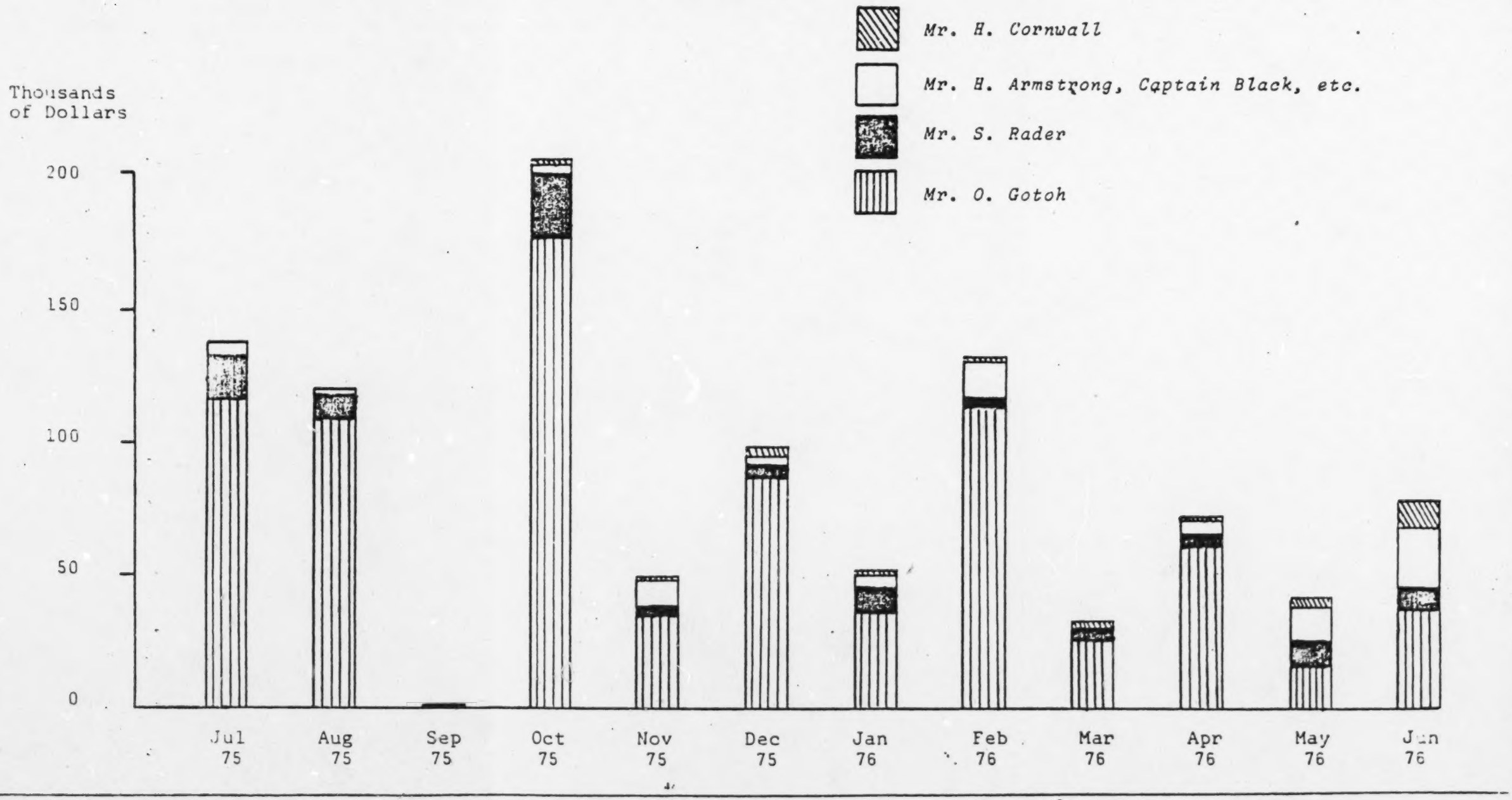
July 1, 1975 Through June 30, 1976

Acct. #	Account	Totals	Pastor General	Pastor General Campaigns	AICF Tokyo	ICCY Israel	Thailand Mt. Tribe Program	Jerusalem Excav. S Wall	Jerusalem Excav. Upper City	Chancellor's Scholarships
2 1	Salaries	$ 62,948	$ 62,948							
2 0	Professional Fees	(10,460)	4,540	($ 15,000)						
3 3	Print Insertions	52		52						
0	Telephone & Telex	12,383	12,383							
3 7	Freight	5,997	1,184	4,813						
3 0	Travel & Lodging	889,485	804,927	83,185	$ 1,373					
3 3	Contracted Services	24,203	14,119	10,084						
3 7	Maintenance & Repair	2,011	2,011							
3 5	Outside Food Service	1,013	1,013							
4 0	Office Supplies	919	919							
4 1	Misc. Supplies	1,669	1,669							
4 3	Production Supplies	3,518	3,344	174						
4 1	Petroleum Products	461	461							
4 7	Books & Periodicals	12	12							
4 2	Allocation to Branches	25,061	25,061							
0	Property & Bldg. Rent	780		780						
5 0	Insurance Premiums	2,530	2,530							
5 0	Public Relations	819,346	766,422	52,924						
5 0	All Other	9,882	10,387	(638)	133					
6 0	Employee Grants-in-Aids	120								$120
9 1	Grants-in-Aid	179,713	10,000		86,022	$12,500	$43,391	$26,200	$1,600	
	Totals	$2,031,643	$1,723,930	$136,374	$87,528	$12,500	$43,391	$26,200	$1,600	$120

PASTOR GENERAL - MONTHLY EXPENDITURES

July 1, 1975 Through June 30, 1976

Cost Center:	Pastor General	Pastor General Campaigns	AICF Tokyo	Chancellor's Projects	Actual	Budget	Variance
July 1975	$ 179,335	$ 47,685	$ Ø	$ 4,567	$ 231,587	$ 147,821	$ 83,766 Over Budget
August 1975	195,706	11,704	Ø	5,366	212,776	146,431	66,345 Over Budget
Sept. 1975	55,583	Ø	Ø	30,487	86,070	146,431	60,351 Under Budget
Oct. 1975	358,653	Ø	25,019	Ø	383,672	146,431	237,241 Over Budget
Nov. 1975	121,828	(15,000)	10,022	Ø	116,850	146,433	29,583 Under Budget
Dec. 1975	188,169	13,467	10,021	3,391	215,048	147,823	67,225 Over Budget
Jan. 1976	80,691	9,636	11,395	40,000	141,722	146,433	4,711 Under Budget
Feb. 1976	197,058	13,399	10,022	Ø	220,479	146,433	74,046 Over Budget
March 1976	38,133	10,852	10,021	Ø	59,006	146,441	87,435 Under Budget
April 1976	81,768	40,207	11,022	Ø	132,997	146,441	13,444 Under Budget
May 1976	89,078	1,272	5,016	Ø	95,296	146,441	51,145 Under Budget
June 1976	137,928	3,152	(5,010)	Ø	136,069	146,000	9,931 Under Budget
Total	$1,723,930	$136,374	$87,528	$83,811			



CREDIT CARD USAGE FOR PASTOR GENERAL TRAVEL & LODGING AND PUBLIC RELATIONS

Source: Expenditure Distribution Report - Monthly Payments to Credit Card Companies

CREDIT CARD USAGE FOR PASTOR GENERAL TRAVEL & LODGING & PUBLIC RELATIONS

	8/75	9/75	10/75	11/75	12/75	1/76	2/76	3/76	4/76	5/76	6/76
-6, .69	$102,328.57	$1,381.88	$ 85,451.36	$26,553.71	$23,047.46	$22,809.24	$ 40,721.63	$ 9,358.02	$31,401.63	$25,245.13	$64,660.85
2, .04	5,953.40	Ø	120,367.72	23,299.05	75,157.63	19,597.00	80,752.12	13,932.97	1,109.34	16,861.96	18,483.13
7, .10	11,703.51	Ø	Ø	Ø	Ø	452.10	10,650.15	9,972.76	526.13	Ø	Ø
	Ø	Ø	Ø	Ø	Ø	9,180.33	Ø	Ø	39,591.46	Ø	Ø
7, .83	$119,985.48	$1,381.88	$205,819.08	$49,852.76	$98,205.09	$52,038.67	$132,123.90	$33,263.75	$72,628.56	$42,107.09	$83,143.98

tal Credit Card Activity for Account Code #'s 6510-350, 6510-370, 6511-350, and 6511-370, respectively $1,027,989.07

11.67	$ 514.73	$ Ø	$ 2,149.73	$ 1,627.00	$ 3,487.11	$ 1,705.02	$ 1,655.47	$ 2,669.54	$ 1,576.91	$ 3,648.91	$ 3,399.79
											2,807.05
11.67	$ 514.73	Ø	$ 2,149.73	$ 1,627.00	$ 3,487.11	$ 1,705.02	$ 1,655.47	$ 2,669.54	$ 1,576.91	$ 3,648.91	$ 6,206.84

tal Credit Card Activity for Account Code #'s 6510-350 and 6510-370 - Mr. H. Cornwall $25,452.93

7, 11.69	$ 90,769.27	$ 114.24	$ 68,512.16	$15,839.19	$11,507.58	$ 7,246.20	$ 23,528.27	$ 2,256.28	$20,365.95	$ 9,098.74	$30,886.57
	5,953.40		107,687.02	19,003.72	75,157.63	19,597.00	78,892.65	13,932.78	682.23	6,730.85	8,507.57
, 71.10	11,703.51					452.10	10,650.15	9,972.76	526.13		
						9,180.33			39,591.46		
15, 35.79	$108,426.18	$ 114.24	$176,199.18	$34,842.91	$86,665.21	$36,475.63	$113,071.07	$26,161.82	$61,165.77	$15,829.59	$39,394.14

tal Credit Card Activity for Account Code #'s 6510-350, 6510-370, 6511-350, and 6511-370, respectively for Mr. O. Gotoh $813,931.53

6, 55.25	$ 9,285.21	$ 257.37	$ 11,978.87	$ 3,810.36	$ 5,356.06	$ 9,539.35	$ 2,334.69	$ 3,338.65	$ 4,627.41	$ 185.53	$ 2,749.53
154.54			12,680.70				1,859.47		427.11	10,131.11	7,168.51
16, 09.79	$ 9,285.21	$ 257.37	$ 24,659.57	$ 3,810.36	$ 5,356.06	$ 9,539.35	$ 4,194.16	$ 3,338.65	$ 5,054.52	$10,316.64	$ 9,918.04

tal Credit Card Activity for Account Code #'s 6510-350, and 6510-370 - Mr. S. Rader $102,539.72

58	$ 1,759.30	$1,010.27	$ 2,810.60	$ 9,572.49	$ 2,696.71	$4,315.67	$ 13,203.20	$ 1,093.74	$ 4,831.36	$12,311.05	$

PASTOR GENERAL - MONTHLY EXPENDITURES
ACCOUNT 350 - TRAVEL & LODGING

July 1, 1975 Through June 30, 1976

Month	Pastor General	Pastor General Campaigns	Amount	Budget	Variance
July	$130,380.54	$47,674.10	$178,054.64	$ 100,416.40	$ 77,638.24 Over Budget
August	119,218.80	11,703.51	130,922.31	100,416.40	30,505.91 Over Budget
September	9,268.11	Ø	9,268.11	100,416.40	91,148.29 Under Budget
October	119,682.00	Ø	119,682.00	100,416.40	19,265.60 Over Budget
November	51,223.90	Ø	51,223.90	100,416.40	49,192.50 Under Budget
December	50,361.94	1,814.20	52,176.14	100,416.40	48,240.26 Under Budget
January	50,594.08	452.10	51,046.18	100,416.40	49,370.22 Under Budget
February	55,971.13	10,650.15	66,621.28	100,416.40	33,795.12 Under Budget
March	23,909.62	10,365.16	34,274.78	100,416.40	66,141.62 Under Budget
April	58,812.94	526.13	59,339.07	100,416.40	41,077.33 Under Budget
May	62,274.00	Ø	62,274.00	100,416.40	38,142.40 Under Budget
June	73,230.74	Ø	73,230.74	100,416.40	37,185.66 Under Budget
	$804,927.80	$83,185.35	$888,113.15		

EXPENSE ANALYSIS SUMMARY

PASTOR GENERAL EXPENSES - ACCOUNT 570 - PUBLIC RELATIONS*

July 1, 1975 - June 30, 1976

(A) VIP Travel, Lodging & Entertainment			(C) Film & Film Processing			(E) Testimonial Dinners & Overseas Campaigns		
July	$ 6,861.16		July	$2,272.64		July	$ 4,600.00	
Aug.	42,495.17		Aug.	536.02		Aug.	5,000.00	
Sept.	7,385.93		Sept.	1,419.43		Sept.	4,420.00	
Oct.	91,344.55		Oct.	153.70		Oct.	107,174.10	
Nov.	(2,040.42)		Nov.	Ø		Nov.	23,177.60	
Dec.	13,263.18		Dec.	2,178.10		Dec.	64,840.18	
Jan.	7,056.24		Jan.	Ø		Jan.	28,261.27	
Feb.	17,257.94		Feb.	Ø		Feb.	106,912.37	
Mar.	3,651.87		Mar.	Ø		Mar.	15,378.97	
Apr.	8,731.58		Apr.	Ø		Apr.	39,591.46	
May	18,927.79		May	Ø		May	Ø	
June	11,314.62	$226,249.61	June	Ø	6,559.89	June	3,152.00	402,507.95
(B) Gifts			(D) Contracted Services			(F) Miscellaneous		
July	$ 22,538.74		July	$ 3,100.00		July	$ Ø	
Aug.	6,961.37		Aug.	24,750.00		Aug.	65,440.00	
Sept.	5,592.99		Sept.	7,000.00		Sept.	13,840.00	
Oct.	24,923.10		Oct.	104.97		Oct.	Ø	
Nov.	10,845.63		Nov.	2,820.02		Nov.	18,248.00	
Dec.	12,583.37		Dec.	Ø		Dec.	46,235.79	
Jan.	3,177.03		Jan.	Ø		Jan.	Ø	
Feb.	6,451.09		Feb.	Ø		Feb.	1,654.50	
Mar.	4,543.36		Mar.	Ø		Mar.	Ø	
Apr.	940.27		Apr.	Ø		Apr.	Ø	
May	Ø		May	Ø		May	Ø	
June	16,524.00	115,080.95	June	19,300.00	57,074.99	June	119.32	145,537.61

GRAND TOTAL	$953,011.00

*For Cost Centers 6510, 6511, 1400 (July - Dec. 1975)

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(A) VIP Travel & Lodging:

	Invoice Date	Recipient	Purpose of Payment	Amount
July:	6/26/75	Beverly Wilshire Hotel	Mr. & Mrs. Nadaya (6/24, 25, 26)	$ 321.93
	6/28/75	Perino's	Mr. Gotoh (6/25, 6/28)	564.15
	5/24/75	TWA - Gotoh	M. Baca	684.32
	5/27/75	TWA - Gotoh	Mugo - Addis Ababa - Nairobi - Addis Ababa	373.80
	5/23/75	TWA - Gotoh	Dr. Angeles	668.60
	6/3/75	TWA - Gotoh	Zulin Mehta	61.00
	5/27/75	TWA - Gotoh	Dr. Singh - Nirobi, Zurich, Geneva, Amsterdam	1,897.84
	5/22/75	TWA - Gotoh	Rahiansgy - Amsterdam, Paris, Amsterdam	444.25
	5/22/75	TWA - Gotoh	Dr. Singh - Amsterdam, Paris	222.12
	7/21/75	Dr. Ohno - Cash	Expense Money	1,300.00
	7/07/75	White Tie Limo. Sv.	Mr. Nadaya	323.15
Sub total for amount paid in July				$ 6,861.16
August:	6/19/75	TWA - Gotoh	Dr. Singh - Amsterdam, Geneva, Amsterdam	$ 224.73
	7/22/75	TWA - Gotoh	Matsufuji - Paris, Tel Aviv	3,190.00
	7/24/75	TWA - Gotoh	Dr. Ohno - Tokyo, Los Angeles, Tokyo	1,045.67
	6/19/75	TWA - Gotoh	Mr. Mugo - Paris, Geneva, Paris	114.18
	6/06/75	TWA - Gotoh	Mr. Mugo - Nirobi, Paris, Geneva	1,887.93
	6/13/75	TWA - Gotoh	Matsufuji - Tokyo, Bombay, Tel Aviv	3,452.05
	6/19/75	TWA - Gotoh	Dr. Singh - Geneva, London, Amsterdam	349.80
	6/18/75	TWA - Gotoh	Mr. Mugo - Paris, Geneva, London	508.92
	6/19/75	TWA - Gotoh	Mr. Mugo - Nirobi, Addis Ababa, Paris, Geneva	131.93
	6/13/75	TWA - Gotoh	Dr. Singh - Amsterdam, Tokyo, Amsterdam	8,001.72
	8/13/75	Captain Black	Expense money for Mr. Ravid	1,000.00
	7/10/75	TWA - Gotoh	Amano	1,008.87
	8/3/75	TWA - Gotoh	Murata	1,297.87
	7/18/75	Monty's - Pasadena	One Dinner	9.93
	4/22/75	TWA - Gotoh	Fujita - Tokyo, Hong Kong, Karochi, Tokyo	1,643.21
	6/6/75	TWA - Gotoh	Gecage - Nairobi, Paris, Geneva	1,887.93
	8/28/75	Okno, Sato, Matsufuji	Cash - Entertainment Expense	2,700.00
	8/01/75	WWA - Gotoh	Travel & Transportation for Japanese Group	13,750.00
	7/19/75	Perino's	Various Meals	290.43
Sub Total for amount paid in August				

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

VIP Travel & Lodging (Continued):

	Invoice Date	Recipient	Purpose of Payment	Amount
September:	7/05/75	Beverly Wilshire Hotel	Senator Bunsei Sato	$ 904.30
	9/03/75	Beverly Wilshire Hotel	Japanese Senators	1,997.73
	7/23/75	AC Big Sandy	Flight Charges to San Antonio - Dr. & Mrs. Angeles	270.00
	8/05/75	Carlton Tower	Dr. Singh (7/31 - 8/05)	1,774.59
	9/05/75	Disneyland Hotel	Matsufuji and family and Dr. Ohno (8/28 - 8/30)	423.91
	8/26/75	Beverly Wilshire Hotel	Hajime Ishii (Japanese Diet) (8/25, 8/26)	180.40
	9/03/75	Worldwide Adv. Gotoh	Misc. Expense - Japanese Delegates to Jerusalem	1,835.00
Sub Total for amount Paid in September				$ 7,385.93
October:	9/09/75	L. A. Hilton	Dr. Ohno (8-24 to 9-09)	$ 1,428.21
	7/20/75	TWA - Gotoh	Yamaguchi	2,054.87
	8/25/75	TWA - Gotoh	Matsufuji	6,734.34
	9/29/75	White Tie Limo.Serv.	Japanese Senators	2,588.60
	8/11/75	Diners Club - Rader	La Scala, Beverly Hills	195.71
	9/03/75	Royal V.S.P. Services	Honolulu	293.58
	9/02/75	Am. Express - Gotoh	Hyatt Regency - Manila	3,926.93
	9/18/75	TWA - Gotoh	Dr. Ohno	1,041.44
	7/30/75	TWA - Gotoh	Yamashita	1,355.56
	7/26/75	TWA - Gotoh	Mori	2,054.87
	9/16/75	Beverly Wilshire	B. Mugo (9/10 - 9/16)	2,462.74
	9/02/75	Mrs. Mugo	Bank Draft to Carlton Tower for Mrs. Mugo	4,972.84
	10/6/75	Kahala Hilton	Ambassador Mugo & Family	2,408.33
	8/30/75	Am. Express - Gotoh	Imperial Hotel - Tokyo	5,739.27
	9/02/75	Del Webbs Kuilima	Hotel charges - Senator Matsufuji & Party - Hawaii	476.69
	8/05/75	TWA - Gotoh	Yomashita	10,660.45
	10/21/75	Regency Hotel	Mrs. Dottie Moore (10/20 - 10/21)	429.47
	9/09/75	Hertz - L.A.	John Kineston for VIP	422.65
	7/26/75	TWA - Gotoh	Lloyd - NCE - Paris	1,695.60
	7/26/75	TWA - Gotoh	Yamaguchi	3,401.19
	9/01/75	Regency Hotel	Ambassador Mugo (9/2 - 9/10)	5,393.96

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

VIP Travel & Lodging (Continued):

	Invoice Date	Recipient	Purpose of Payment	Amount
October (Cont.):	8/20/75	TWA - Gotoh	N. M. Mugo	$19,272.73
	10/06/75	White Tie Limo. Serv.	Mugo & Family, Cornwall & Rader	921.65
	8/26/75	Amer. Express - Gotoh	Korikawa Restaurant, L.A.	2,056.84
	9/17/75	Foreign Draft	Bank Draft to Carlton Tower, London	3,583.64
	8/26/75	TWA - Gotoh	Fukunaga	1,683.50
	8/26/75	Amer. Express - Gotoh	Korikawa Restaurant, L.A.	67.91
	9/25/75	Regency Hotel	Dr. Singh (9/15 - 9/25)	4,020.98
Sub Total for Amount paid in October				$91,344.55
November:	10/13/75	Perino's	Various Meals	$ 298.73
	9/18/75	Lowes Drake	Ms. C. Drake - Guest of H.W.A. - New York	59.32
	11/15/75	Bev. Wilshire Hotel	Sander, Gorlinsky	1,175.74
	10/01/75	Diners Club - Gotoh	Club Kon (Night club) - Japan	1,519.75
	11/19/75	Bev. Wilshire Hotel	Jascha Bistritzky (11/4 - 11/19)	1,149.24
	9/03/75	TWA - Gotoh	Senator Yamashita	(6,243.20)
Sub Total for Amount paid in November				$(2,040.42)
December:	10/25/75	American Express	Osamu Gotoh - Hotel Bill - Switzerland	$ 6,325.40
	11/18/75	TWA - Gotoh	Y. Olino - TYO - LAX - NYC - LAX - TYO	1,334.77
	11/24/75	White Tie Limo. Ser.	Mr. George Whyte - Limousine Service	151.80
	12/20/75	White Tie Limo. Ser.	Mr. Gotoh, Rader, Panov, Whyte	631.25
	12/09/75	Royal USP Serv.	Limousine Service in Hawaii	423.20
	12/10/75	Royal USP Serv.	Limousine Service in Hawaii	202.60
	12/10/75	TWA - Gotoh	Kabayashi - Paris to Tokyo	2,189.29
	10/14/75	TWA - Gotoh	J. Bistrytsky TLV - VIE, LON, NYC, - TLV	1,465.24
	11/25/75	Regency Hotel, N.Y.	Sara Kde Mekler - along with Bistrytsky	539.63
Sub Total for Amount paid in December				$13,263.18

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(A) VIP Travel & Lodging & Entertainment:

	Invoice Date	Recipient	Purpose of Payment	Amount
January 1976:	12/30/75	Perino's	Meals	$ 707.60
	12/31/75	Perino's	Meals	1,252.16
	12/30/75	Perino's	Meals	344.64
	12/29/75	White Tie Limo Serv.	Mr. Cornwall & Mr. Fujita - 5 trips	461.70
	12/02/75	White Tie Limo Serv.	Mr. & Mrs. Arthur Rubenstein	96.60
	12/19/75	White Tie Limo Serv.	Mr. Rader	28.80
	01/07/76	White Tie Limo Serv.	Mr. Rader - 3 trips	149.00
	12/18/75	TWA - Gotoh	F. Lloyd - Hong Kong-Zurich-Paris	1,612.10
	12/14/75	TWA - Gotoh	M. Lloyd - Tokyo - Hong Kong	85.83
	12/18/75	TWA - Gotoh	Akanoma - Hong Kong	334.16
	12/16/75	TWA - Gotoh	Akanoma - Tokyo-Hong Kong-Beirut-Cairo-Paris-London-New York	1,983.65
			Sub-total for January	$ 7,056.24
February 1976:	10/25/75	Diners-Gotoh	S.A.Hermes - Paris (Credit)	$ (750.38)
	12/05/75	Diners-Gotoh	Japan (establishment unknown)	1,147.30
	01/26/76	Perino's	Meals	226.07
	01/28/76	Perino's	Meals	868.68
	01/25/76	White Tie Limo Serv.	Mr. Rader & party	212.60
	01/31/76	White Tie Limo Serv.	Mr. Gotoh	147.60
	12/24/75	Amex - Gotoh	S.A.Hermes - Paris	2,237.12
	12/16/75	TWA - Gotoh	Siniscar - Tokyo-Honk Kong-Singapore-L.A.-Tokyo	3,989.68
	01/14/76	TWA - Gotoh	J. Romm - Tokyo-Paris	1,646.23
	12/24/75	TWA - Gotoh	Stanronides - London-L.A.-London	795.44
	01/14/76	TWA - Gotoh	S. Hagiwara - Tokyo-Paris-Tokyo	6,584.92
	12/23/75	TWA - Gotoh	Y. Akandiya - Cairo-Paris	152.68
			Sub-total for February	$17,257.94

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(A) VIP Travel & Lodging & Entertainment:

	Invoice Date	Recipient	Purpose for Payment	Amount
March 1976:	02/20/76	White Tie Limousine	Limousine Service - Gotoh	$ 48.00
	02/25/76	Perino's	Food Service - H.W.A.	13.65
	02/28/76	Perino's	Food Service - S.R.R.	272.34
	Adjustment	TWA	Miyagawa	3,317.88
			Sub-total for March	$3,651.87
April 1976:	01/29/76	TWA - Gotoh	Miyagawa	$2,305.99
	01/31/76	TWA - Gotoh	Kawada	1,725.70
	02/19/76	White Tie Limo.Serv.	Horowitz	156.55
	03/05/76	White Tie Limo.Serv.	Rader & Cornwall	823.70
	03/12/76	Diners Club S.R.R.	La Scala	100.25
	03/18/76	Diners Club S.R.R.	La Scala	202.71
	03/19/76	Diners Club S.R.R.	La Scala	102.18
	03/21/76	Royal VSP Serv.	Limousine Service in Hawaii	470.58
	03/23/76	Diners Club S.R.R.	Beverly Wilshire	21.97
	03/27/76	Perino's	Food Service	664.74
	03/29/76	Perino's	Food Service	177.42
	03/30/76	La Scala	Restaurant - S.R.R.	261.68
	03/31/76	White Tie Limo Serv.	Ambassador & Mrs. Nasar	610.80
	04/01/76	Ambassador Nasar	Expense money	1,000.00
	04/17/76	Disneyland Tour	Ambassador Nasar	107.31
			Sub-total for April	$8,731.58

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(A) VIP Travel & Lodging & Entertainment:

	Invoice Date	Recipient	Purpose of Payment	Amount
May 1976:	02/10/76	Diners Club - Gotoh	Imperial Hotel - Tokyo	$ 2,473.38
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,323.61
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,219.50
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	02/25/76	Diners Club - Rader	Hilton Hotel - Jerusalem	1,084.00
	03/13/76	Diners Club - Gotoh	Hawn Regent Hotel - Honolulu	4,257.20
	04/02/76	Perino's	Meals	779.36
	04/07/76	Perino's	Meals	36.17
	05/06/76	Beverly Wilshire Hotel	Ambassador Nasr & Family Hotel Bill	1,180.88
	05/13/76	La Scala	Meals - Rader	69.69
			Sub-total for May	$18,927.79
June 1976:	04/06/76	Diners Club - Gotoh	Hotel Plaza - Paris	$ 8,507.57
	05/16/76	Amer. Express	Canyon Hotel - Palm Springs, Mr. Cornwall	500.04
	05/16/76	Amer. Express	Canyon Hotel - Palm Springs, Mr. Cornwall	2,307.01
			Sub-total for June	$11,314.62

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(B) Gifts:

	Invoice Date	Recipient	Purpose of Payment	Amount
July:	6/11/75	Amer. Express - S. Rader	Sato Photo Co.	$ 154.54
	6/11/75	Amer. Express - E. Black	King Fook Gold & Jewelry - Hong Kong	3,144.50
	6/10/75	Lee Mac Camera	Mr. Gotoh - 3 Cameras & Accessories	1,133.67
	6/12/75	Lee Mac Camera	Mr. Gotoh - 3 Cameras & Cases	504.03
	6/25/75	Steuben Glass	1 Moses, 1 Pyramidon, 1 Excalibur, 3 Pillar of the Griffin	12,402.00
	7/09/75	Worldwide Adv. -Gotoh	Gifts for Tokyo, Geneva, Paris trip (6/16 - 6/25)	1,400.00
	7/09/75	Worldwide Adv. -Gotoh	Tokyo, Paris Monte Carlo trip	3,800.00
Sub Total for Amount paid in July				$22,538.74
August:	8/22/75	Central Stores W/C	Cross, Schaeffer, Parker Pen and Desk Sets	$ 408.31
	7/28/75	Amer. Exp.- Gotoh	Sato Photo Co. - Tokyo	389.45
	8/12/75	Barnhart	Golf Balls for King Leopold	26.16
	7/29/75	Lee Mac Camera	4 Cameras, Accessories & Film	1,440.54
	7/19/75	Amer. Exp. -Gotoh	Sato Photo Co.	461.65
	7/02/75	Lee Mac Camera	6 Cameras & Accessories	1,135.26
	8/06/75	WWA - Gotoh	Egypt, Israel & Orient (8/1 - 8/20)	3,100.00
Sub Total for Amount paid in August				$ 6,961.37
September:	9/09/75	WWA - Gotoh	Trip - Tokyo, Bangkok, Austria (8/21/75 - 9/21/75)	$ 4,300.00
	8/29/75	Lee Mac Camera	Camera & Accessories	335.28
	8/19/75	Lee Mac Camera	2 Cameras and Accessories	957.71
Sub Total for Amount paid in September				$ 5,592.99
October:	8/31/75	Amer. Exp. - Rader	Sato Photo Co., Tokyo	$ 435.60
	7/09/75	Amer. Exp. - Gotoh	Gucci Shop, Paris	1,162.10
	8/23/75	Amer. Exp. - Gotoh	Sato Photo Co., Tokyo	1,571.50
	8/27/75	Diners Club - Gotoh	Gucci Shop, Beverly Hills	127.20
	8/27/75	Amer. Exp. - Gotoh	Gucci Shop, Beverly Hills	702.78
	8/27/75	Amer. Exp. - Gotoh	Gucci Shop, Beverly Hills	385.84
	10/2/75	Steuben Glass Co.	4 Crystal Griffins	7,441.20
	10/9/75	WWA - Gotoh	Gifts for Geneva, Paris, Dusseldorf	4,000.00
	9/12/75	Lee Mac Camera	Cameras, Cases, etc.	4,691.56

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

Gifts (Continued):

	Invoice Date	Recipient	Purpose of Payment	Amount
October (Cont.)	08/21/75	Diners Club	Expenses incurred in Japan	921.94
	10/31/75	Gene Michel	Golf Clubs	111.40
	10/31/75	Central Stores, WC	Cross, Schaeffer, Parker Pen and desk sets (6/15 - 7/15)	1,636.78
	10/31/75	Central Stores, WC	Cross, Schaeffer, Parker pen and desk sets (8/15 - 10/15)	1,735.20
Sub Total for amount paid in October				$24,923.10
November:	10/20/75	Steuben Glass Co.	Four Pieces of Crystal	$ 3,406.00
	09/30/75	Amer. Express--Gotoh	Sato Photo Co.	1,502.50
	11/12/75	Osamu Gotoh	Gifts for Japan, Jamaica, Thailand, Incia, etc.	5,300.00
	09/25/75	Amer. Express - Gotoh	King Fook Gold & Jewellry - Hong Kong	637.15
Sub Total for amount paid in November				$10,845.63
December:	06/03/75	ACUK Backcharge	Mr. Rader - Perfume purchased at Harrods	$ 81.27
	10/08/75	Amer. Express	Osamu Gotoh - K. Mikinoto & Co. Tokyo	1,666.95
	10/15/75	Carte Blanche	Osamu Gotoh - 62 Pc. Flatware	55.88
	10/27/75	Carte Blanche	Osamu Gotoh - Mens Jacket	22.76
	10/27/75	Carte Blanche	Osamu Gotoh - Glassware	36.54
	10/27/75	Carte Blanche	Osamu Gotoh - Ladies Jacket	22.76
	10/27/75	Carte Blanche	Osamu Gotoh - Mens Jacket	22.76
	10/30/75	Diners Club	Osamu Gotoh - Christian Dior, Faris	115.06
	11/14/75	American Express	Osamu Gotoh - Duty Free Shop	306.85
	12/26/75	Osamu Gotoh	Cash paid out for gifts	209.88
	12/23/75	Central Stores WC	Pen and Desk Sets for Mr. Gotoh	442.66
	12/01/75	Osamu Gotoh	Gifts - Japan, Philippines, Thailand, Iran, Switzerland	4,600.00
	12/03/75	Osamu Gotoh	Gifts - Bahamas, Japan, Korea, Israel, Egypt, etc.	5,000.00
Sub Total for amount paid in December				$12,583.37

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(B) Gifts

	Invoice Date	Recipient	Purpose of Payment		Amount
January 1976:	12/01/75	Lee-Mac	2 cameras & cases		$ 336.02
	12/17/75	Amex - Gotoh	Sato Photo Co. - Tokyo		516.06
	12/23/75	Polaroid	11 cameras with cases & film		2,324.95
				Sub-total for January	$ 3,177.03
February 1976:	12/23/75	Diners - Gotoh	Christian Dior - Paris		$ 635.46
	12/18/75	Diners - Gotoh	Siberian Fur Store - Kowloon		2,124.24
	01/15/76	Amfac	12 cases of flashbars		245.38
	01/10/76	Amex - Gotoh	K.K. Cosmo Tenchido - Tokyo		209.73
	01/03/76	Amex - Gotoh	Bernard's China - Nassau		309.05
	01/09/76	Amex - Gotoh	Sato Photo Co. - Tokyo		1,121.32
	01/08/76	Amex - Gotoh	Sato Photo Co. - Tokyo		245.13
	12/23/75	Amex - Gotoh	Cartier - Paris		1,560.78
				Sub-total for February	$ 6,451.09
March 1976:	01/24/76	Amex - Gotoh	Nassau Shop - Bahamas		$ 360.00
	01/25/76	Amex - Gotoh	Island Newsstand		156.00
	01/30/76	Amex - Gotoh	Sato Photo Co., Ltd.		1,138.00
	02/03/76	Lee Mac	Poloroid Cameras		2,646.00
	02/03/76	Lee Mac	Leather Carrying Cases		245.36
				Sub-total for March	$ 4,545.36
April 1976:	09/15/75	Diners - Gotoh	Christian Dior		$ 258.04
	02/04/76	Diners - Gotoh	Gucci - Paris		682.23
				Sub-total for April	$ 940.27

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(B) Gifts

	Invoice Date	Recipient	Purpose of Payment	Amount
June 1976:	06/14/76	Patek Philippe	Gifts - H.W.A. Purchase	$ 4,504.00
	05/08/76	Steuben Glass	Six Crystal Pillar/Griffins	12,020.00
				$16,524.00

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(C) Film & Film Processing:

	Invoice Date	Recipient	Purpose of Payment	Amount
July:	6/03/75	Lee-Mac Camera	Mr. Gotoh - 420 Rolls of Film & Bulbs	$1,583.64
	6/12/75	Lee-Mac Camera	Mr. Gotoh - 130 Rolls of Film & Bulbs	689.00
Sub Total for Amount paid in July				2,272.64
August:	7/21/75	Eastman Kodak	Mr. Gotoh - 36 Rolls of Film	$ 536.02
September:	8/29/75	Eastman Kodak	Film	346.67
	8/05/75	Eastman Kodak	Film	21.78
	8/07/75	Consolidated Film Ind.	Film Development - Asian Students	55.22
	7/30/75	Consolidated Film Ind.	Film Development - Asian Students	149.44
	8/04/75	Consolidated Film Ind.	Film Development - Asian Students	527.02
	8/25/75	Consolidated Film Ind.	Film Development - Asian Students	155.85
	7/22/75	Consolidated Film Ind.	Film Development - Asian Students	9.17
	8/07/75	Consolidated Film Ind.	Film Development - Asian Students	47.80
	7/22/75	Consolidated Film Ind.	Film Development - Asian Students	106.48
Sub Total for Amount Paid in September				$1,419.43
October:	9/03/75	Lee-Mac Camera	Color Processing	153.70
December:	9/03/75	Consolidated Film Ind.	Film Expenses for AICF	$ 193.65
	9/03/75	Consolidated Film Ind.	Film Expenses for AICF	16.92
	10/20/75	American Express	Osamu Gotoh - Photo Hall, Paris	56.02
	11/04/75	American Express	Osamu Gotoh - Sato Photo Co. Tokyo	1,911.51
Sub Total for Amount Paid in December				$2,178.10

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(D) Contracted Services:

	Invoice Date	Recipient	Purpose of Payment	Amount
July:	7/08/75	Hans Quast	Brecht Translation Rights & Art Design - Polydor	$ 3,100.00
August:	8/20/75	Gateway	Advance to Guarantee Payment - Book on Hirohito	$24,750.00
September:	9/03/75	Hans Quast	Unicef - U.N. Record	$ 7,000.00
October	10/26/75	Sam Duncan	Photography for Japanese Documentary	$ 104.97
November:	11/30/75	San Duncan	Photography for HWA Banquet	$ 614.04
	11/20/75	WC Adjustment	TV - Audio Clip for Slide Presentation	24.50
	11/06/75	WC Adjustment	Tony Vanderleeden - Film Editing	20.00
	11/20/75	WC Adjustment	TV - Recording of AICF Performance	54.30
	11/20/75	WC Adjustment	TV - Use of Beethoven Recording at Recital	19.18
	11/06/75	WC Adjustment	TV - 2-min. Talk Show - KNXT; KFAC 1-min. Spots	2,088.00
Sub Total for Amount Paid in November				$ 2,820.02

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(D) Contracted Services

	Invoice Date	Recipient	Purpose of Payment	Amount
June 1976:	06/21/76	Gateway Publishers	World Activities of United Nations & Introduction to Egypt	$ 2,300.00
	06/21/76	Gateway Publishers	World Activities of United Nations & Introduction to Egypt	17,000.00
				$19,300.00

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(E) Banquets:

	Invoice Date	Recipient	Purpose of Payment	Amount
July:	7/09/75	Worldwide Adv. - Gotoh	Tokyo, Geneva, Paris Trip (6/16 - 6/25)	$ 1,200.00
	7/09/75	Worldwide Adv. - Gotoh	Tokyo, Paris, Monte Carlo Trip (6/26 - 7/31)	3,400.00
Sub Total for Amount Paid in July				$ 4,600.00
August:	7/28/75	Worldwide Adv. - Gotoh	Jerusalem Banquet Set-Up Expense	$ 2,500.00
	8/06/75	Worldwide Adv. - Gotoh	Egypt, Israel & Orient (8/1 - 8/20)	2,200.00
	8/13/75	Peter Schanz	Champagne for HWA Social Center	300.00
Sub Total for Amount Paid in August				$ 5,000.00
September:	9/05/75	AC Food Service	Hors d'ourves for AICF Reception (8/27)	$ 100.00
	9/09/75	Worldwide Adv. - Gotoh	Trip: Tokyo, Bangkok, Austria (8/21 - 9/21)	3,200.00
	9/03/75	Worldwide Adv. - Gotoh	Jerusalem Party	1,120.00
Sub Total for Amount Paid in September				$ 4,420.00
October:	7/17/75	Am. Express - Gotoh	Jerusalem Hilton (No Backup)	$ 9,897.97
	8/08/75	Am. Express - Gotoh	Hotel Plaza Athenee Paris (No Backup)	12,416.93
	8/31/75	Am. Express - Gotoh	Imperial Hotel, Tokyo (No Backup)	13,735.74
	9/12/75	Am. Express - Gotoh	Munich, Germany	12,504.59
	9/11/75	Diners Club - Rader	Hotel Plaza Athenee, Paris	12,049.39
	7/12/75	Am. Express - Gotoh	Hotel Plaza Athenee, Paris	10,309.99
	7/17/75	Am. Express - Gotoh	Hilton - Jerusalem (Split Charge)	9,897.97
	10/09/75	Worldwide Adv. - Gotoh	Geneva, Paris, Dusseldorf trip - Banquets	4,100.00
	8/02/75	Am. Express - Gotoh	Hotel de Paris - Monte Carlo	22,261.52
Sub Total for Amount Paid in October				$107,174.10
November:	8/25/75	Am. Express - Gotoh	Imperial Hotel, Tokyo	$ 15,344.32
	11/01/75	Osamu Gotoh	Banquets: Japan, Jamaica, Thailand, India, etc.	3,200.00
	9/07/75	Diners Club - Balck	Tel Aviv Hilton, Israel	4,295.33
	10/09/75	Squires, Pasadena,	Wine for AICF Reception	337.95
Sub Total for Amount Paid in September				$ 23,177.60

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

Banquets (Continued):

December	10/23/75	American Express	Osamu Gotoh - Hotel Plaza Athenee, Paris	$16,556.12
	10/29/75	American Express	Osamu Gotoh - Hotel Plaza Athenee, Paris	11,615.00
	10/29/75	American Express	Osamu Gotoh - Hotel Plaza Athenee, Paris	11,615.00
	11/01/75	American Express	Osamu Gotoh - Hotel Plaza Athenee, Paris	6,098.91
	11/05/75	American Express	Osamu Gotoh - Imperial Hotel, Tokyo	8,580.29
	11/02/75	American Express	Osamu Gotoh - Hotel in Bangkok, Thailand	3,774.86
	12/01/75	Osamu Gotoh	Banquet Expenses - Japan, Philippines, Thailand Iran, Switzerland	2,800.00
	12/31/75	Osamu Gotoh	Banquet Expenses - Bahamas, Japan, Korea, Israel, Egypt, etc.	3,800.00
Sub Total for Amount Paid in December				$64,840.18

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(E) Testimonial Dinners & Overseas Campaigns

	Invoice Date	Recipient	Purpose of Payment	Amount
January 1976:	12/17/75	Amex - Gotoh	Imperial Hotel - Tokyo	$17,261.74
	11/30/75	Amex - Gotoh	Plaza Athenee - Paris	1,819.20
	11/05/75	Amex - Gotoh	Sheraton - Jamaica	1,133.39
	11/07/75	Amex - Black	Rose Hall - Jamaica	5,859.60
	11/17/75	Amex - Gotoh	Sheraton - Jamaica	900.00
	11/15/75	Amex - Gotoh	Sheraton - Jamaica	1,287.34
			Sub-total for January	$28,261.27
February 1976:	01/20/76	Diners - Gotoh	Plaza Athenee - Paris	$ 1,859.47
	01/21/76	Amex - Gotoh	Plaza Athenee - Paris	14,063.22
	01/22/76	Amex - Gotoh	Plaza Athenee - Paris (adj. from January billing)	16,307.64
	12/27/75	Amex - Gotoh	Plaza Athenee - Paris	12,096.29
	12/18/75	Amex - Gotoh	Hotel in Hong Kong - name unknown	11,477.34
	12/18/75	Amex - Gotoh	Hotel in Hong Kong - name unknown	2,253.99
	01/24/76	Amex - Gotoh	Plaza Athenee - Paris	9,795.09
	01/16/76	Amex - Gotoh	Hotel in Switzerland - name unknown	4,059.33
	02/16/76	Barclays Bank, Int.	Cable for campaign expenses - Nassau	25,000.00
	02/27/76	A.C. Agency	Cable for campaign expenses - Philippines	10,000.00
			Sub-total for February	$106,912.37
March 1976:	02/01/76	Amex. - Gotoh	Imperial Hotel	$ 16,278.97
	04/02/76	Cable - Adair	Manila Campaign	3,100.00
			Sub-total for March	$ 15,378.97
April 1976:	02/13/76	Diners Club	Nassau	$ 12,876.84
	02/14/76	Diners Club	Nassau	18,412.12
	02/17/76	Diners Club	Nassau	8,302.50
			Sub-total for April	$ 39,591.46

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(E) Testimonial Dinners & Overseas Campaigns

	Invoice Date	Recipient	Purpose of Payment	Amount
June 1976:	05/13/76	Bank of America	Cairo Banquet expenses held in April	$ 3,152.00

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

(1) Miscellaneous:

	Invoice Date	Recipient	Purpose of Payment	Amount
	8/27/75	AICF	40 House Seats per Concert	$65,440.00
September	9/27/75	AICF	4 House Tickets for 16 Series	3,840.00
	9/16/75	Osamu Gotoh	Cash Cable to London - Purpose Unknown	10,000.00
				$13,840.00
November	10/24/75	Les Ambassadeurs S.A.	Check Written by HWA	$ 368.00
	10/24/75	Les Ambassadeurs S.A.	Check Written by HWA	380.00
	11/19/75	Jascha Bistritzky	Cash to Mr. Bistritzky - AICF Board of Directors	2,500.00
	11/30/75	Osamu Gotoh	Cash Cable to Jamaica	15,000.00
Sub Total for Amount Paid in November				18,248.00
December	10/15/75	Carte Blanche	Osamu Gotoh - Food Tote (?)	$ 24.32
	10/17/75	American Express	Osamu Gotoh - Santory, Paris (?)	78.02
	10/25/75	American Express	Osamu Gotoh - Hermes, Paris (?)	3,012.29
	10/25/75	Diners Club	Osamu Gotoh - Hermes, Paris (?)	3,260.33
	11/12/75	Perinos	AICF Reception	7,238.13
	12/08/75	Air Wings Int.	Ship 12 Magazines to Mr. Rader in Hong Kong	26.50
	12/03/75	Air Wings Int.	Home Vidio Game Gift Sent to Mr. Gotoh - Tokyo	26.50
	12/16/75	Osamu Gotoh	Manila Campaign	12,000.00
	12/15/75	Gateway Publishing	Additional Expenses on Book About Japanese Emperor	12,300.00
	10/25/75	Jurgensens Groceries	AICF Reception per H.C.	399.38
	11/17/75	Bert Roberts	Bartender - AICF Reception	576.83
	11/14/75	Squires	AICF Reception - Liquor	88.80
	11/17/75	Gino Galileo	Bartender - AICF Reception	38.50
	11/10/75	Squires	AICF Reception - Liquor	850.67
	11/15/75	Paone Catering	Catering Service for AICF Reception	1,028.20
	11/17/75	Ed Aryoin	Bartender - AICF Reception	38.50
	11/17/75	Richard Melone	Bartender - AICF Reception	38.50
	11/15/75	Sven's Danish	Pastries for AICF Reception	111.42
	11/10/75	Squires	AICF Reception - Liquor	1,000.00

EXPENSE ANALYSIS
PASTOR GENERAL EXPENSES - ACCOUNT 570

Miscellaneous (Continued):

11/21/75	Krupnicks	Mrs. Rader - Banquet Equipment & Supplies Rental	$ 1,372.76
11/26/75	Lincoln Foods	Plastic Glasses for AICF	14.79
12/01/75	Carl Mannino	Caterer - AICF Reception	45.50
12/01/75	Don Allevato	Caterer - AICF Reception	32.50
12/01/75	Marc Ziegler	Caterer - AICF Reception	32.50
12/01/75	Mario Armato	Caterer - AICF Reception	32.50
12/01/75	Sam Ippolito	Caterer - AICF Reception	32.50
12/01/75	Rose Roberts	Caterer - AICF Reception	45.50
12/01/75	Iren Myernik	Caterer - AICF Reception	32.50
12/12/75	Robert Kuhn	Reimbursement for Two AICF Receptions	1,457.85
12/16/75	Paradise Island	Deposit for Campaign Facilities in Bahamas	1,000.00
Sub Total for Amount Paid in December			$46,235.79

EXPENSE ANALYSIS

PASTOR GENERAL EXPENSES - ACCOUNT 570

(F) Miscellaneous

	Invoice Date	Recipient	Purpose of Payment	Amount
February 1976:	02/13/76	W. C. Adjustment	Photograph Rader's Anniv. party at H. W. Armstrong's Home	$ 382.50
	02/27/76	W. C. Adjustment	Backcharge from Central Stores	1,272.00
			Sub-total for February	$ 1,654.50
June 1976:	04/20/76	Ambassador College BS	Doilies for Big Sandy Student dinners	$ 22.32
	04/20/76	Ambassador College BS	Flowers for Big Sandy Student Dinners	97.00
				$ 119.32

Executed this 23d day of December, 1978, at Altadena, California.

/s/ Benjamin R. Chapman
Benjamin Chapman

DECLARATION OF DAVID R. MORGAN

I, DAVID R. MORGAN, hereby declare as follows:

1. I have been a member of the Church since 1962, having been baptized in that year.

2. I am a licensed electrician. For seven and one-half years, from 1964 to 1972, I worked as an electrician for the Church on its projects full time, for one-half of the pay that an electrician would receive if he worked in private industry.

3. From 1962 to 1975, I also tithed, i.e., gave 10% of my annual income to the Church. since that date, I have given 5% of my annual income to the church.

4. Many members of the Church put themselves through considerable hardships in order to finance its work. Many members of my acquaintance pay substantially more than 10% of their total income to the work of the Church. One example of self-denial on the part of the membership is that some ladies I am acquainted with, and for whom I used to mow the lawn on weekends as an act of charity, regularly fast once a week and give the money they save on food to the Church.

5. Despite the austere lifestyle that the members undergo to finance the work, I have observed numerous instances of waste and mismanagement of Church finances.

6. For example, while I was working for the Church as an electrician, I became aware that certain materials being used on an electrical installation that I was working on were far more expensive than were necessary for that job. I brought that fact to the attention of my foreman. He refused to do anything about it, so I brought the problem to the attention of his superior. That superior did not address himself to the issue that I raised, but rather gave me a dressing-down to the effect that, since my foreman had authority

over me, I was to give him unquestioning obedience, because all members of the Church are to obey without questions all commands from persons in authority over them.

7. On another occasion, I was instructed to install chandeliers in the personal residence of Herbert W. Armstrong, the Pastor General. Price tags were attached to the chandeliers when they were given to me for installation. While I can no longer remember the exact price, I recall that they cost substantially more than $5,000 each.

8. On another occasion, a work crew of electricians all of whom were Church employees spent more than a week working on a private house in Beverly Hills owned by Mr. Stanley Rader.

9. Based on my observations, the doctrine of unquestioning obedience has been imposed throughout the Church hierarchy.

10. None of the wasteful expenditure that I had an opportunity to observe as a full-time electrician was ever reported or disclosed by Church authorities to me or other members of the Church in our capacity as members. The financial information divulged to the membership has never contained sufficient detail to bring these matters to the attention of the members.

11. In all the years I have been associated with the Church as a member, I have never been given an opportunity to vote, nor have I ever voted, on any matter pertaining to the governance of the Church or any of its affairs, whether financial or ecclesiastical.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of December, 1978, at Beverly Hills, California.

/s/ David R. Morgan
DAVID R. MORGAN

DECLARATION OF ALVIN E. TIMMONS

I, ALVIN E. TIMMONS, hereby declare as follows:

1. I am one of the relators named in the within action. I make this declaration in support of the application of plaintiff in support of a temporary receiver and a temporary restraining order, and for a receiver and injunction *pendente lite*.

2. Since 1966, since I was baptized into the Church, I have been a member in good standing of the Worldwide Church of God.

3. I began attending services of the Church in approximately 1965. However, I began to tithe in 1959 (contributing one-tenth part of my annual net income), and I have made substantial monetary contributions to the Church in addition to the tithing.

4. For many years, I was engaged in business as a plumbing and heating contractor, and I have done a tremendous amount of work for the Church, all without cost or charge for my services: I installed the seats for the Church in a theater in Sacramento; I installed a commissary for the Church on Fair Oaks Avenue in Pasadena, investing approximately $20,000 to $30,000 worth of my time without charge, billing the Church only for the cost to me of necessary materials.

5. All of the money I have contributed was solicited by the Church and given by me, on the understanding that it would be used solely and exclusively to further religious work of the Church. This concept is constantly expressed in the Church publications which are distributed to the members. A typical example is the "Pastor's Report" for December 19, 1978, a copy of which is attached hereto, marked Exhibit A. In this report, in a section written and signed by

Stanley Rader and Ralph Helge, reference is made to "the financial aspects of God's Work;" "..God's money;" "God's tithe money;" and so on.

6. The passage to which I have referred in Exhibit A consists of an accusation by Rader and Helge against a former financial officer of the Church, Ray Wright, that he was permitted to accomplish "a misuse of God's tithe money." However, my own inquiries and investigations in recent weeks have led me to conclude that Rader and Helge, and other people in the Church, have been and are guilty of a continuous misuse of God's tithe money.

7. Although I have been a member of the Church for thirteen years, I have never been asked to vote or given an opportunity to vote on any matter pertaining to Church governance, or to its financial and business affairs. To the best of my knowledge, no member has ever been given an opportunity to vote on any such matter.

8. Likewise, the Church has distributed little or no financial information about its receipts and expenditures, or about its assets and liabilities, during the years I have been associated with the Church. It is true that, from time to time, *oral* financial reports were given by Mr. Armstrong and Mr. Rader to members assembled at conclaves held by the Church in connection with the Feast of Tabernacles. However, only a tiny fraction of the members were present at these meetings, and the results were not published or disseminated in any of the numerous publications issued by the Church. More recently, written reports have been disseminated over the signature of Stanley Rader. However, these reports are made in such form, and at such times, as to be virtually useless. For example, the Church publishes a newspaper entitled "The Good News." In the issue for Monday, September 25, 1978, a "Treasurer's Report" was included, over the signature of Stanley R. Rader, purporting

to show the income and expenditures for the year ended December 31, 1977. Six weeks later, on November 6, the paper published what purports to be a balance sheet for the Church and Ambassador College (combined) at December 31, 1977. Copies of these reports are attached hereto, collectively marked Exhibit B. However, neither of these reports provides any meaningful information. Rader describes them as having been audited and certified each year "by an independent firm of certified public accountants;" but the accountants are not identified, and their signature does not appear. The operating statement apparently relates only to the Worldwide Church of God, while the balance sheet relates to the Church and Ambassador College combined. The categories of expenditures are so broad as to be meaningless: "International Expenses, $15,867,700;" "Personal Worldwide Evangelism—Campaigns and Overseas Visits, $2,738,500."

9. Except for these partial and scanty reports in recent months, the Church does not distribute or disseminate any financial information to the members, and does not make it available on request.

10. I have, however, been able to obtain certain materials from personnel currently or formerly in the employ of the Church, which contain information about the Church's finances. One of these documents is entitled "Pastor General Department, Report of Expenditures, July 1, 1975, through June 30, 1976," which is attached as Exhibit B to, and authenticated by, the delcaration of Benjamin Chapman, a former board member of the College. I have also obtained a copy of an internal accounting document of the Church, entitled "Executive Expense Analysis" for March 3, 1978, a copy of which is attached hereto, marked Exhibit C. These items show immense expenditures for Mr. Rader, Mr. Armstrong, Mr. Gotoh, Mr. Cornwall, and other Church officers and executives, for luxury items of vast expense.

11. I have also obtained a copy of a letter, dated July 24, 1978, from Stanley R. Rader to Garner Ted Armstrong (a former officer of the Church and son of Herbert W. Armstrong, the Pastor General), in which Rader makes elaborate offers of compensation and other benefits in exchange for a promise by Garner Ted Armstrong that he will not reveal the internal financial affairs of the Church. A copy of this letter is attached hereto, marked Exhibit D.

. . .

13. Much of the information I have obtained in recent weeks comes from persons who are employed full time by the Church, and who have asked me to keep the source of my information confidential, because they are afraid to lose their jobs. However, I can and will identify them, if called upon by the Court to do so. These people have advised me that many of the Church's records, particularly those pertaining to executive compensation and expense accounts, and to transactions between the Church and various entities owned or controlled by Rader, have been removed from the Church's main office in Pasadena to the suite of offices maintained by Rader and his law and accounting firm (and his affiliated companies) in Century City. I have also been advised that many records are being mechanically shredded or destroyed.

14. I have recently learned that many properties which have been owned by the Church for a long time have recently been sold and converted into cash. As indicated in the declaration of my wife, Shirley Timmons (being filed concurrently herewith), the Church has sold many parcels of property in the last year. I am generally familiar with real estate values, and I believe they were sold for substantially less than their market value. For example, Ambassador College

sold a residence to Stanley Rader in September for $225,-000, which was described in a *People Magazine* article on November 20, 1978, as a "$300,000 Pasadena home, complete with a Porsche and an Aston Martin in the driveway."

14. [sic] The principal liquidation effort, however, does not relate to properties in California, but rather to a large facility owned and operated by the Church in Big Sandy, Texas. This facility consists of 1,600 acres, and includes a complete college campus and Church retreat, with all appropriate buildings and structures, including 330 buildings, twenty-five houses, a 16,000-seat convention, a sixty-acre lake, a nine-hole golf course, a landing strip, airplane hangar, four large dormitories, and gymnasium-auditorium seating 3,500. Recently, the management of the Church announced that the Church was selling the Big Sandy facility for 10.6 million dollars to a Texas businessman, named F. William Menge, who was allegedly given it to the James Robison Evangelistic Association. This event was publicly reported in the Baptist Press, with the comment that Robison's associates placed the property's value at between $30,000,000 and $50,000,000." A copy of an article from the Los Angeles Times for November 4, 1978, referring to these matters is attached hereto, marked Exhibit G [actually, F].

15. On Sunday, December 17, 1978, an article appeared in the *Corpus Christi Caller*, a publicly distributed newspaper in Corpus Christi, Texas, under the heading, "Road to Roloff's New Paradise Proves Rocky." In this article, a copy of which is attached hereto, marked Exhibit G, the newspaper declares that the property is going to be given by Menge, not to Robison, but to one Lester Roloff, another evangelist, indicating that the "gift" may be part of some tax-saving scheme on the part of Menge, the businessman who is actually purchasing it. Among other things,

the article declares that "the price is a steal. For a mere 10.6 million dollars, Roloff Evangelistic Enterprises is getting a piece of property recently appraised at close to $30,000,000, and according to one real estate agent, couldn't be reproduced for less than $50,000,000."

16. While I am not intimately familiar with current real estate values in Texas, I have visited the Big Sandy facility, and am familiar with its physical characteristics. I also am familiar with construction costs from my experience as a contractor. In my opinion, the Big Sandy facility is worth very much more than the reported sale price of $10,600,000, and also very much more than the sum of $8,400,000 attributed to it by Rader in his recently published "balance sheet." Furthermore, the Big Sandy facility is of a special significance to the membership, because it one of the few facilities which is owned by the Church and which is suitable for use for conclaves and other religious gatherings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of December, 1978, at Beverly Hills, California.

/s/ Alvin E. Timmons
ALVIN E. TIMMONS

EXERPTS FROM EXHIBIT A TO DECLARATION OF ALVIN EARL TIMMONS: PASTOR'S REPORT

[LETTER HEAD]

CLEARING THE AIR ON A SERIOUS RUMOR

We regret that it is necessary to advise you of another problem we have uncovered.

Let us first say that it is not God's way to accuse. It is not God's way to make public accusations against an individual. God's way is to forgive when a person repents and to cover the wrong. This is what we tried to do.

However, sometimes it is necessary to bring up facts when a failure to do so will perhaps lead some people to fall away from God's Truth. It is to protect the flock that we bring you this information.

Ted Armstrong has been disseminating false and defamatory rumors designed to destroy this Work. The latest accusation concerns Mr. Ray Wright and the financial aspects of God's Work. To save some of the brethren, who may be weak in the faith, from falling away due to not having all the facts, we must again set the record straight.

These are the facts: Ted Armstrong, when he was serving in the office of Executive Vice President of the Church and President of the College, was the direct overseer of God's money. He authorized a member of his staff, Mr. Raymond L. Wright, to misuse monies that the faithful members of God's family had contributed. And, so none of you will doubt, we have that written authorization in our possession.

Ted Armstrong authorized Mr. Wright to pay secretly, out of Church funds, God's money to a private corporation owned by Mr. Wright and Robert Kuhn in Texas. Ted Armstrong's act of authorizing such payment of Church funds laid the foundation and permitted a greater misuse of God's tithe money in subsequent months.

In spite of the clandestine procedures involved, the scheme was uncovered during an audit by Mr. Jack Kessler, and others on the internal auditing staff.

But there is good news in the final analysis. The experience has served to prove the effectiveness of God's auditing procedures and we are pleased to report that by virtue of swift legal action having been taken, God's Work has been able to either recover God's tithe money or obtain adequate assurance of its repayment.

The two men still in God's Work have repented of their involvement in this matter. And when a man repents of his sins God forgives him of the spiritual wrong. He separates his sin as far as East is from the West and he stands clean and forgiven before God.

As the scripture reads, if we do not forgive our brethren once they have repented, then God will not forgive us for our sins (Matt. 6:14-15). Therefore, let us now forgive and forget the matter as to those who remain faithful to God's Work, and go on and defend the Work in renewed faith against those that Satan is using in an attempt to destroy it through every possible means available.

Stanley R. Rader
Ralph K. Helge

FURNISHING INFORMATION REGARDING FALSE AND VILE ACCUSATIONS

It has come to our attention that among other means GTA has now started what appears to be a telephone calling campaign in an attempt to destroy the faith of some members. He is making not only false but vile accusations against the brethren.

It is clear that God holds the Church responsible for preserving the flock; that the Church has a duty to prevent the flock from being led into tribulation or eternal death.

The Church has now had to determine what is the most effective means of protecting the flock from this Satanic attack of false and vile accusations. It has been concluded that refuting each false and vile rumor is not in all cases an adequate means of carrying out its solemn obligation.

The Church has now determined that in order to adequately discharge its duty to preserve the flock, the Church must and will file suit against GTA or his associates under the appropriate circumstances, in order to stop the physical source of the rumors. Such action will be taken against any person who would lend themselves as an instrument of Satan to destroy the flock.

Ted Armstrong has not only been disfellowshipped but is likewise spreading false doctrine or doctrine which is false as applied. Therefore, in the first instance the brethren should not be receiving calls or any other communications from him or his associates (II Jn. 10, Rom. 16:17).

If, however, for any reason such communications have been received in the past or, for any reason are received in the future, the Church is now requesting that all such communications be forwarded to the Church's legal office. As we can assume that a countermeasure Satan would inspire at this point would be to temporarily suspend the false and vile accusations, or to contact people to whom they were made and request that they alter the accusations that were told or not respond to this request.

Therefore, we would emphasize the importance of furnishing information regarding accusations already made as well. Further, we would call to the attention of all the brethren, ministers and members alike, of the spiritual obligation imposed upon the Christian of coming forth as a witness with any facts he knows or has heard of (Lev. 5:1).

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WORLDWIDE CHURCH OF GOD

WORLD HEADQUARTERS
PASADENA, CALIFORNIA 91123

HERBERT W. ARMSTRONG — STANLEY R. RADER

WORLDWIDE CHURCH OF GOD/AMBASSADOR COLLEGE
BALANCE SHEET
December 31, 1977

	Total 12-31-77	Percentages	
Assets			
Current assets:			
Cash and Certificates of Deposit	$ 2,307,800		2.8
Short-term investments	157,300		.2
Receivables, current	794,300		1.0
Inventories and prepayments	1,614,800		1.9
Total current assets	$ 4,874,200		5.9
Plant assets, net (Note 1)	61,213,000		74.3
Capital leases, net	2,475,300		3.0
Plant assets held for sale (Note 1)	8,400,000		10.1
Ambassador College, United Kingdom (Note 2)	3,979,100		4.8
Noncurrent receivables	1,582,500		1.9
Deposits	1,200		
Total assets	$83,025,300		100.0
Liabilities and Fund Balances			
Current liabilities:			
Accounts payable	$ 1,652,200	7.5	2.0
Accrued liabilities	481,500	2.2	.6
Current portion of long-term debt	2,973,500	13.5	3.6
Current portion of obligations under capital leases	358,000	1.6	.4
Deferred amounts	280,400	1.3	.3
Other current liabilities	205,200	1.0	.3
Total current liabilities	$ 5,950,800	27.1	7.2
Long-term debt (Note 3)	13,176,700	59.9	15.9
Obligations under capital leases	2,819,200	12.8	3.4
Deposits owed to students and others	38,100	.2	
Total liabilities	$21,984,800	100.0	26.5
Fund balances:			
Available for current use	3,800,500		4.6
Invested in AC UK and plant assets of discontinued operations held for sale	12,379,100		14.9
Net investment in plant	44,860,900		54.0
Total fund balances	$61,040,500		73.5
Total liabilities and fund balances	$83,025,300		100.0

NOTES TO FINANCIAL STATEMENTS

"Our estimated market value of the Big Sandy campus is in excess of $10

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BALANCE SHEET

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WORLDWIDE HEADQUARTERS
PASADENA, CALIFORNIA 91123

STANLEY R. RADER

CHURCH OF GOD/AMBASSADOR COLLEGE
ALANCE SHEET
December 31, 1977

	Total 12-31-77	Percentages	
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*The estimated market value of the Big Sandy campus is in excess of $10 million

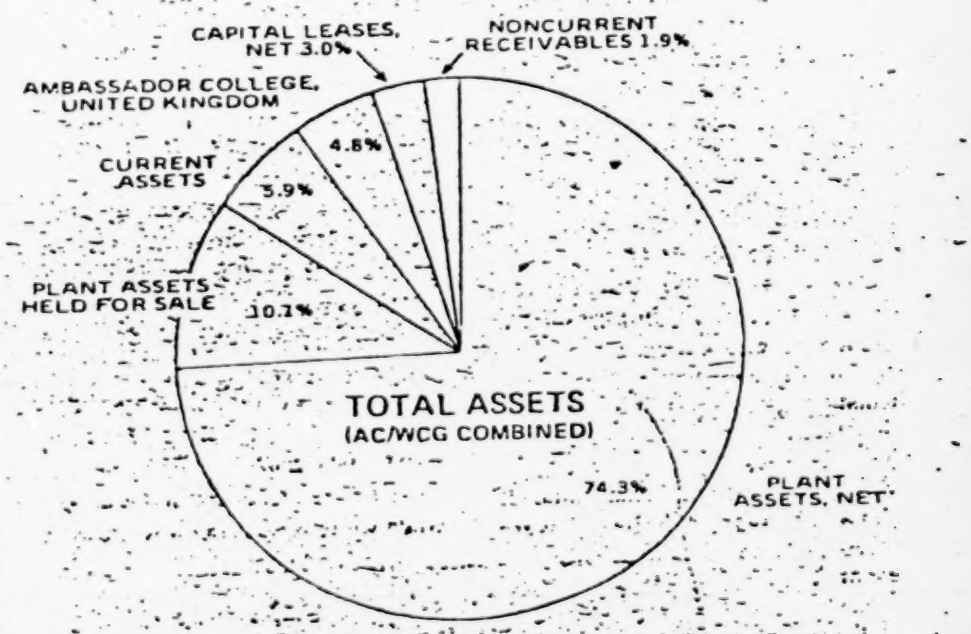
In the Sept. 25 edition of *The Good News*, a Statement of Income and Expenditures with accompanying charts was published. Since it is customary that a Balance Sheet accompany the foregoing statement, the following combined balance sheet of the Worldwide Church of God and Ambassador College for the year ended Dec. 31, 1977, is presented. This statement, however, includes only our United States operations.

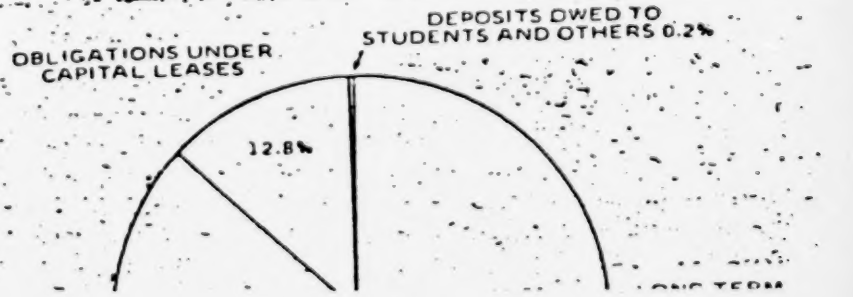
The combined Balance Sheet was derived by combining financial information contained in the certified individual Balance Sheets of the Worldwide Church of God and Ambassador College.

On behalf of Mr. Herbert W. Armstrong, we want to express our deep and sincere appreciation for your continued support of God's Work.

Stanley R. Rader

Treasurer





Fund balances:		
Available for current use	3,200,500	4.6
Invested in AC UK and plant assets of discontinued operations held for sale	12,379,100	14.9
Net investment in plant	44,860,900	54.0
Total fund balances	$61,040,500	73.5
Total liabilities and fund balances	$83,025,300	100.0

NOTES TO FINANCIAL STATEMENTS

Note 1

PLANT ASSETS

At Dec. 31, 1977, the book value of plant assets other than those held for sale as a result of the discontinuance of operations at the campus in Big Sandy, Tex., are as follows:

Land and improvements, net	$ 9,396,100
Buildings and improvements, net	39,376,000
Business aircraft, net (G-II and Cessna Citation)	2,915,900*
Equipment and furnishing, net	6,790,000
Library books	1,237,100
Vehicles, net	1,407,200
Construction in progress	349,500
Leasehold improvements, net	241,200
Total	$61,713,000

Plant assets located at the campus in Big Sandy are presented below:

Land and improvements	$1,092,100
Buildings and improvements	6,044,100
Equipment and furnishings, net	910,500
Library books	263,100
Vehicles, net	68,700
Aircraft, net	23,500
Total	$8,400,000**

*Our Gulfstream II aircraft actually appreciated in value and has a market value in excess of $5 million. The Cessna Citation has since been sold.

**Our estimated market value of the Big Sandy campus is in excess of $10 million.

Note 2

AMBASSADOR COLLEGE, UNITED KINGDOM

The Ambassador College real property in the United Kingdom has been sold for an amount in excess of $4 million.

Note 3

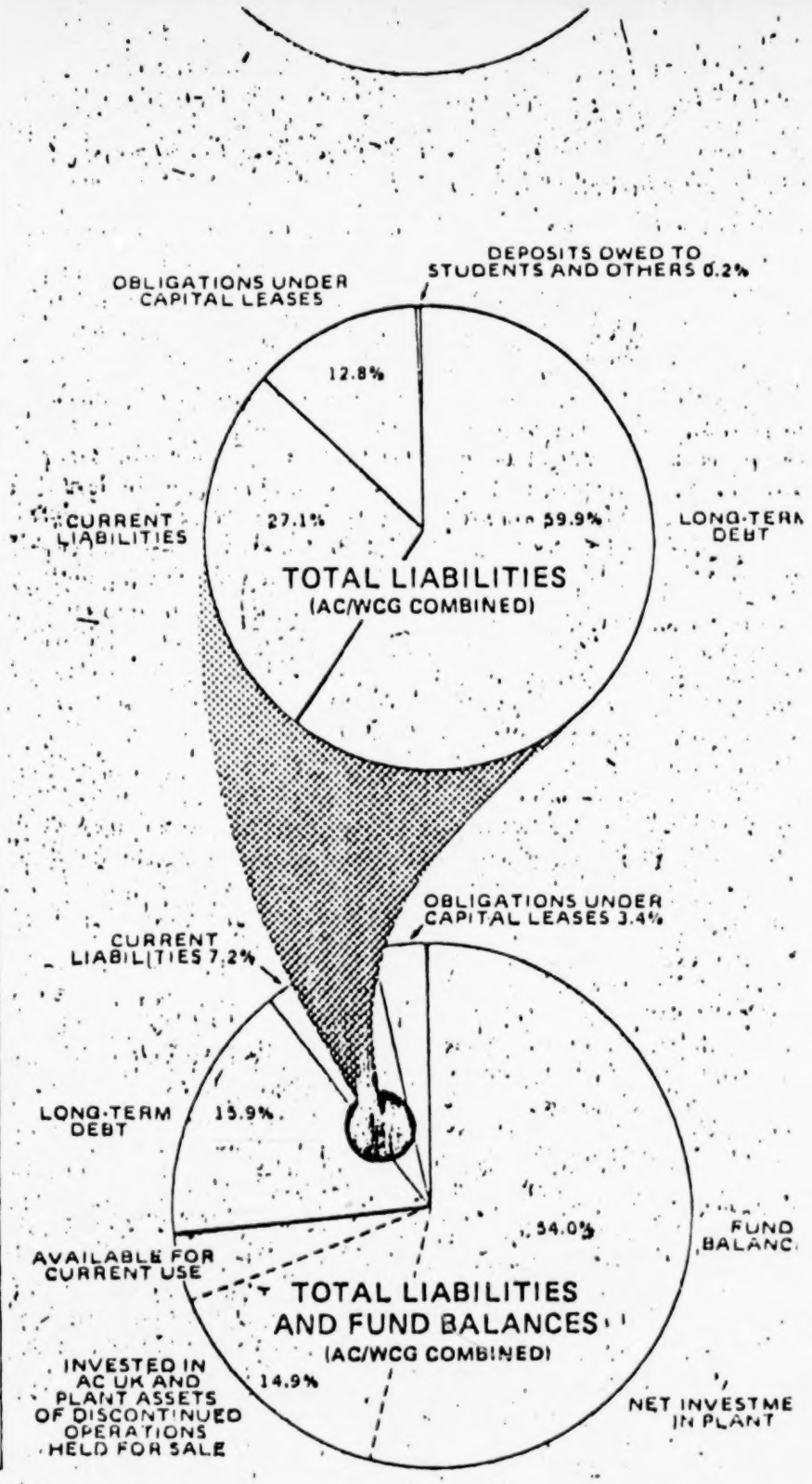
LONG-TERM DEBT AND CREDIT AGREEMENTS

Long-term debt, excluding the portion due within one year, outstanding at Dec. 31, 1977, is as follows:

Mortgages payable:	
Ambassador Auditorium	$ 5,807,600
Student center, parking structure	1,178,200
Press and transportation buildings	1,163,800
Hall of Administration	630,500
Grove Terrace — student dorm	431,300
Other buildings	2,189,100
Total mortgages payable	$11,400,500
Loans payable	1,776,200
Total mortgages and loans payable	$13,176,700

CREDIT AGREEMENT

The Church's principal bank line of credit agreement provides for loans of up to $4.3 million as follows: $1 million unsecured line of credit to support cash flow, interest at prime; $2 million unsecured construction line of credit, interest rate at prime plus one-half percent, repayable at $75,000 per month plus interest; $1.3 million secured motor-vehicle-fleet line of credit, interest at prime plus three-fourths percent.



WORLDWIDE CHURCH OF G

TREASURER'S REP

1966 TO 1977 WENT TO FEAST — GIVEN NO FINANCIAL REPORT (ONLY OFFERINGS) TAKEN UP AT FEAST

In earlier years Mr. Herbert W. Armstrong traditionally presented a financial report to the brethren at the Feast of Tabernacles. Because of the large number of Feast sites around the world it is now impossible to make such a presentation.

Many have indicated that this information would be of general interest to the brethren and co-workers. Therefore, we are publishing this report in the pages of *The Good News* along with a brief explanation of certain key factors.

The Work's financial statements are audited and certified each calendar year by an independent firm of certified public accountants. The following report was excerpted from the financial statements, which are prepared in conformity with generally accepted accounting principles and fairly represent the results of operations for the calendar year ending Dec. 31, 1977. This report includes the international aspects of the Work as well as all allocations to Ambassador College, *Quest/77* and other special projects.

This Work is viewed with highest regards by our

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WORLDWIDE CHURCH OF GOD

WORLD HEADQUARTERS
PASADENA, CALIFORNIA 91123

HERBERT W. ARMSTRONG

STANLEY R. RADER

STATEMENT OF INCOME AND EXPENDITURES

Year Ended December 31, 1977

	Total	%
SUPPORT AND REVENUE:		
Tithes, Offerings and Contributions	$38,812,700	57.8
Festival Fund	1,467,300	2.2
Church Assistance Fund	3,252,400	4.8
Building Fund	707,500	1.1
Holy Day Offerings	7,055,300	10.5
Donated property and estate donations	199,300	.3
International income	14,914,900	22.2
Other income	751,900	1.1
Total support and revenue	$67,161,300	100.0
EXPENSES:		
Program services:		
Personal worldwide evangelism - campaigns and oversea visits	$ 2,738,500	4.0
Media - radio and television, program time and production	4,099,200	5.9
Publishing and editorial	5,476,500	8.1
International expenses	15,867,700	23.2
Ministerial expenses	14,388,700	21.0
Ambassador College, Pasadena	9,844,700	14.4
Ambassador College, Big Sandy	2,305,300	8.4
Investment in Quest/77	3,404,600	5.0
Cultural, educational and humanitarian projects	625,100	.9
Total program services	58,750,300	85.9
Supporting services:		
General and administrative	9,670,200	14.1
Total expenses	$68,420,500	100.0
Excess (deficiency) of support and revenue over expenses	($ 1,259,200)	

LDWIDE CHURCH OF GOD

SURER'S REPORT

and certified each year by an independent firm of certified public accountants. The following report was excerpted from the financial statements, which are prepared in conformity with generally accepted accounting principles and fairly represent the results of operations for the calendar year ending Dec. 31, 1977. This report includes the international aspects of the Work as well as all allocations to Ambassador College, *Quest/77* and other special projects.

This Work is viewed with highest regards by our major lending institutions, and we are continuing to meet our financial obligations on a consistent and timely basis.

Mr. Armstrong wishes to express his appreciation for your continued prayers and loyal financial support.

Treasurer

HURCH OF GOD

STANLEY R. RADER

E AND EXPENDITURES

ember 31, 1977

	Total	%
	$38,812,700	57.8
	1,467,300	2.2
	3,252,400	4.8
	707,500	1.1
	7,055,300	10.5
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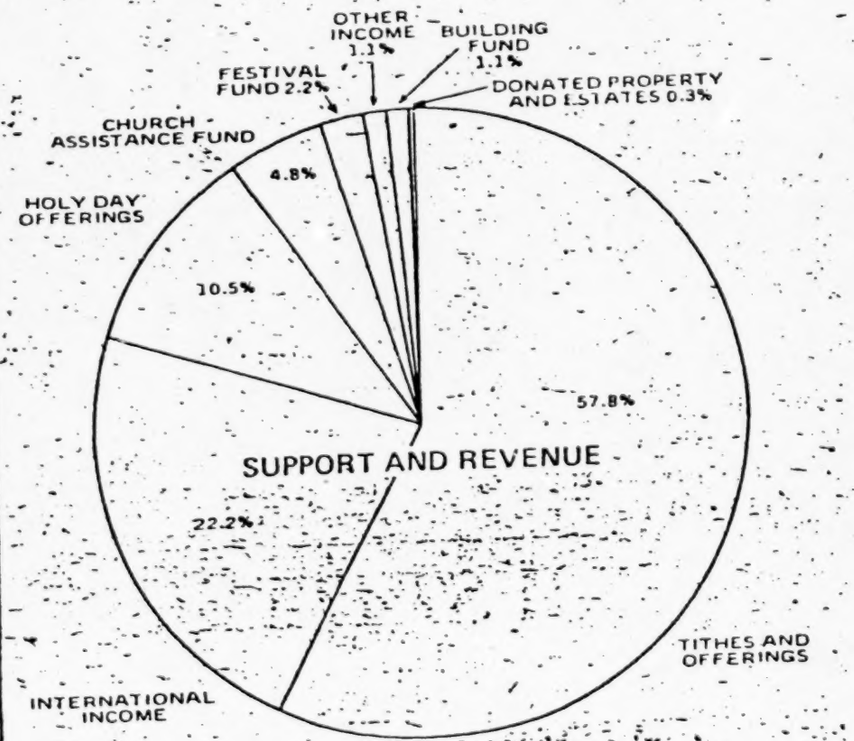
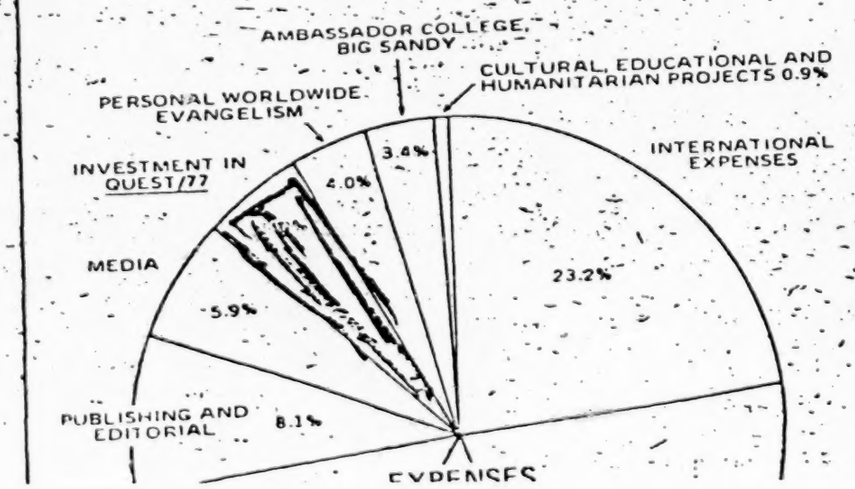
	58,750,300	85.9
	9,670,200	14.1
	$68,420,500	100.0
support	($ 1,259,200)	





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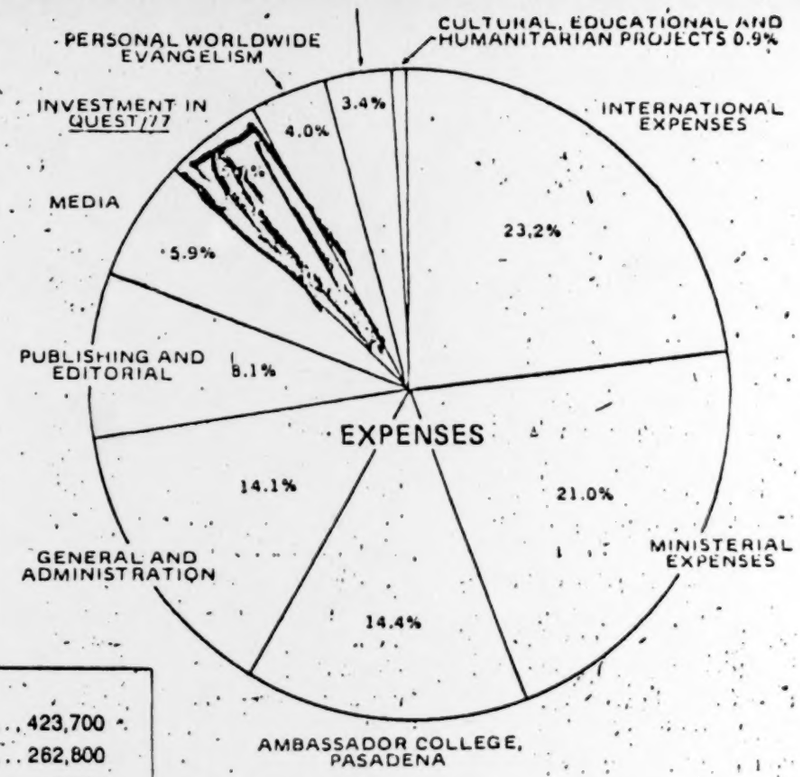
Total program services	58,750,300	85.9
Supporting services:		
General and administrative[3]	9,670,200	14.1
Total expenses	$68,420,500	100.0
Excess (deficiency) of support and revenue over expenses[4]	($ 1,259,200)	



NOTES ON THE STATEMENT OF INCOME AND EXPENDITURES

BASIS OF REPORT

Receipts and expense figures were taken from the certified financial statements. In addition figures were obtained from all ten field operations and added to the certified figures allowing us to present a worldwide financial statement.

INVESTMENT IN 'QUEST/78'

Quest/78 has a circulation of over 300,000 per issue and is expected to be self-supporting by February, 1979.

Currently, two major communications conglomerates and several other major U.S. industrial corporations have shown an interest in acquiring *Quest/78*. We should expect a minimum of 4,000,000 should the magazine be sold at an early date.

GENERAL ADMINISTRATIVE EXPENSES

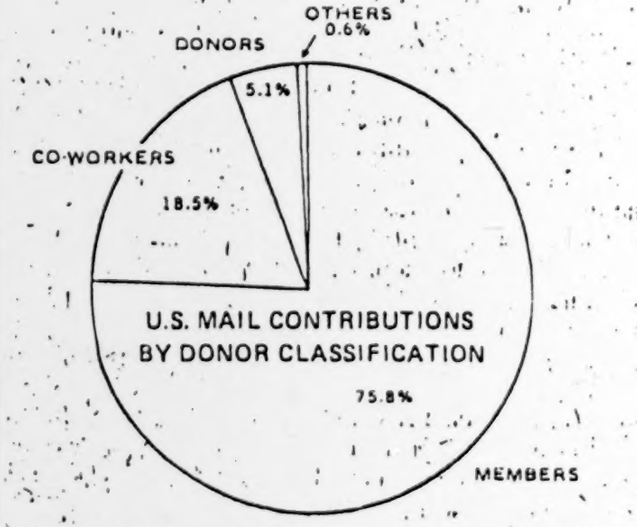
General services salaries, administrative salaries and related expenses	$4,086,600
Contract service payments and fees	1,155,700
Supplies	634,300
Telephone and utilities	472,400
Postage and shipping	545,200
Use of facilities	423,700
Property rentals	262,800
Travel	95,500
Vehicle operating expenses	165,000
Insurance	598,100
Interest	572,700
Taxes, licenses and fees	250,400
Depreciation and amortization	297,700
Miscellaneous	110,100
Total general and administrative expenses	$9,670,200

DEFICIENCY

This deficiency (excess expense over revenue) was met by short-term borrowing from our bank — United California Bank.

NOTE ON CHARTS

To assist the reader in visualizing the financial data, we have prepared the accompanying charts. The first two charts graphically portray the same information presented in the Statement of Income and Expenditures. The third chart depicts the U.S. mail contributions by donor classification. As you can see the membership is responsible for 75.8 percent of all U.S. donations made to the Work.



MR. STANLEY R. RADER
PASADENA EXPENSES BEING HELD FOR PAYMENT:

BEVERLY HILLS UTILITIES	$ 287.26	
PROPERTY TAX ON BEVERLY HILLS HOME	7,284.47	
LANDSCAPING FOR BEVERLY HILLS HOME	413.17	
EXPENSE ALLOWANCE	2,782.00	
MORTGAGE PAYMENT OF BEVERLY HILLS HOME	2,400.00	
TOTAL EXPENSES FOR BEVERLY HILLS		$13,166.90

MISCELLANEOUS PASADENA EXPENSES BEING HELD FOR PAYMENT:

MRS. UPTON	$ 480.00	
CENTURY FILING SERVICE	268.00	
LAW BOOKS	567.92	
DICTATING AND TRANSCRIBING SERVICE	666.74	
WHITE TIE LIMOSINE SERVICE	367.55	
INSURANCE	54.00	
LA SCALAS	694.78	
BEVERLY WILSHIRE	16.68	
MISCELLANEOUS SUBSCRIPTIONS	19.36	
TOTAL MISCELLANEOUS EXPENSES		3,135.03
TOTAL PASADENA EXPENSES BEING HELD FOR PAYMENT		$16,301.93

A. TIMMONS C

EXECUTIVE EXPENSE ANALYSIS
Pasadena, California
March 3, 1979

MR. STANLEY R. PADER
TRAVEL EXPENSES BEING HELD FOR PAYMENT:

HOTEL PLAZA ATHENEE - PARIS	$22,571.19
TWA - LOS ANGELES TO NEW YORK	347.00
WHITE ELEPHANT LTD. - LONDON	83.85
WILSHIRE TRAVEL	1,536.00
TOTAL TRAVEL EXPENSE	$24,538.04

EXECUTIVE EXPENSE ANALYSIS
Pasadena, California
March 3, 1978

MR. STANLEY R. RADER
TUCSON EXPENSES BEING HELD FOR PAYMENT:

FURNISHINGS FOR TUCSON HOME	$7,508.65	
MORTGAGE PAYMENT ON TUCSON HOME	999.30	
TELEPHONE	944.88	
APPLIANCE SERVICE	64.88	
HOME ALARM SERVICE	32.00	
POOL SERVICES	42.50	
PEST CONTROL SERVICE	11.03	
HOUSEKEEPING SERVICE	580.00	
UTILITIES-GAS AND ELECTRIC	237.91	
GOLF CLUB	170.67	
TOTAL EXPENSE FOR TUCSON		$10,591.17

EXECUTIVE [illegible]
Pasadena, California
March [illegible], 1978

MR. STANLEY R. RADER
SUMMARY OF EXPENSES BEING HELD FOR PAYMENT:

EXPENSES FOR BEVERLY HILLS HOME	$13,166.90	
MISCELLANEOUS EXPENSES	3,135.03	
TOTAL PASADENA EXPENSES		$16,301.93
EXPENSES FOR TUCSON HOME		10,591.17
TRAVEL EXPENSES		24,538.04
TOTAL EXPENSES BEING HELD FOR PAYMENT		$51,431.14

MR. HENRY F. CORNWALL
TRAVEL EXPENSES BEING HELD FOR PAYMENT:

IMPERIAL HOTEL	$22,925.56
HERTZ	190.64
NATARNI NEZ-TUCSON	37.00
HARRODS	281.98
POLAND HOTEL AND RESTAURANT	732.87
JAPAN AIRLINES	24,881.28
WHITE TIE - LIMOUSINE SERVICE	107.80
TWA - LOS ANGELES TO TOKYO (ROUND TRIP)	1,937.00
TOTAL EXPENSES BEING HELD FOR PAYMENT	$51,094.13

STANLEY R RADER

July 24, 1978

Dear Ted:

We did want to take this time and opportunity to write you regarding the arrangements the Church was willing and desirous of undertaking regarding your recent termination.

Perhaps, first, I should mention that under the policy and procedures adopted by the Church and College you are considered as having been discharged "for cause," and as a consequence would not legally be entitled to any severance, termination, retirement or other type of benefit or financial arrangements.

However, as a matter of Christian courtesy, and not by virtue of any legal obligation, Mr. Herbert Armstrong, with the counsel and consent of his advisors, has agreed that the Church pay you the sum of $50,000.00 per year in bi-monthly installments less federal and state withholding.

The payment of such sum is subject, however, to the unconditional right of the Church to terminate said payments at any time, with or without cause, within the Church's sole and objective discretion. Without limitation upon the generality of the foregoing, one of the conditions that would result in the termination of said payments would be breach of the following confidentiality provision.

We feel that inasmuch as you would morally consider information within your knowledge and possession as confidential and private under any circumstances, that the confirmation of such would not create an additional burden on you.

Therefore, this is to confirm that in carrying out your past duties for the Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation, and by virtue of the relationship created thereby, you have from time to

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session, custody, or control of information and documentation which concerned the affairs of Worldwide Church of God, Ambassador College and Ambassador International Cultural Foundation and the lives of their officers, employees, directors and agents, which information and documentation was and is confidential and private.

By accepting either of the benefits provided herein, or any portion thereof, you agree to maintain the confidentiality and privacy of such information and documentation regarding such corporations and persons which you have within your knowledge, possession, custody, or control. Further, you agree never to release, divulge, disclose, make available, or in any other manner make known any such information or documentation, in perpetuity, which you have within your knowledge, possession, custody or control. You further agree to take reasonable precautions to safeguard all such information and documentation.

Whether any information or documentation is private or confidential shall be decided by the Church. Such decision shall be within its sole and subjective discretion and shall be deemed conclusive and determinative of the question.

Pursuant to your conversations with Mr. Herbert Armstrong, we are also enclosing a license agreement whereby the Church agrees to permit your use of the Tahoe cabin under the terms set forth.

If you are in agreement with the same, please sign one copy of the agreement in the place provided and return within 15 days from the date of this letter. A self-addressed stamped envelope is enclosed for your convenience in doing so.

In the event you are not desirous of utilizing the Tahoe cabin please advise as arrangements have been made with Mr. Evans to assist you in removing your personal effects from the cabin and to obtain all keys pertaining to the property.

It should be noted that the use of the Tahoe cabin, and the financial arrangements, are without legal obligation but are based solely upon the certain subjective, discretionary spiritual determinations based upon the Bible. Therefore, acceptance of either of the foregoing or any portion thereof, will constitute full payment and satisfaction of any and all obligations that might exist between yourself, the Worldwide Church of God, Ambassador College or Ambassador International Cultural Foundation, and any of their officers, directors, employees, or agents, resulting in a full release and discharge of each of them from any and all obligations that may exist to the date hereof.

garding A.I.C.F. so we may complete our corporate records in this regard.

It is our sincere hope that you will see fit to accept the following under the terms and conditions provided and in the attitude of love and concern in which they are offered.

In Jesus' name,

Stanley R. Rader

SRR:vak

Encls.

ARMSTRONG TEXAS CAMPUS SOLD FOR $10.6 MILLION

The Big Sandy branch of Ambassador College in east Texas has been sold to a Virginia businessman for $10.6 million, Stanley Rader, spokesman for Herbert W. Armstrong's Worldwide Church of God, has confirmed.

Rader said the sale of the 1,600-acre facility, "pending approval of the church's Executive Committee" this weekend, had been consummated. The property was put up for sale by the church after Armstrong reversed the decision of his son, Garner Ted Armstrong, to transfer college operations there from the Pasadena campus of Ambassador.

The younger Armstrong was subsequently ousted from the theocratic empire of his father last June, and the Pasadena school is now operating on a vastly reduced scale. Students from the Big Sandy campus already had been transferred to Pasadena.

The Baptist Press announced last week that businessman F. William Menge had brought the Texas property and given it to the James Robison Evangelistic Assn. Robison is a Southern Baptist preacher.

Robison's associates placed the property's value at between $30 million and $50 million, according to the Baptist Press.

The real estate includes 330 buildings, 25 houses, a 16,000-seat convention center, 60-acre lake, a 9-hole golf course, a landing strip, airplane hangar, four large dormitories and a gymnasium-auditorium seating 3,500.

Robison was reported to have plans for youth camps, retreats, conferences and discipleship training on the site, as well as to build a retirement center.

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Therefore, each and every person who has or does receive a letter or telephone call or any other type of communication, from GTA, or any of his associates, making accusations against God's Church is now being asked to forward the following information regarding the matter to the Church's Legal Office:

> Please include the approximate date of the communications, who was involved in the communication, and exactly what was said. If the communication was in writing or taped, please forward a copy.

If it would appear that some of the brethren are likely to fall away by virtue of certain false and vile accusations, and that simply refuting them will not appear likely to prevent this injury, then with this information appropriate action can and will be taken.

So there is no misunderstanding brethren, it must be understood that if legal action is taken, it is not for the purpose of vengeance but simply to discharge the Church's duty to preserve the flock. Further, if the issues were only matters of doctrine, then it would be left to the ministry to carry out one of their primary duties to protect the flock by refuting and stopping the mouth of the gainsayer.

This reporting requirement should be considered as being in addition to any other reporting obligation to any other person or department you may have presently.

Stanley R. Rader
Ralph K. Helge

. . .

DECLARATION OF SHIRLEY TIMMONS

I, SHIRLEY TIMMONS, hereby declare as follows:

1. I am one of the relators named in the within action. I make this declaration in support of the application for appointment of a temporary receiver and a temporary restraining order, and for a receiver and injunction pendente lite.

2. I am the wife of Alvin Timmons. I have been a member of the Church as long as he has.

3. I am also a licensed real estate associate. In recent weeks, I made various inquiries at the office of the Los Angeles County Tax Assessor and the office of the Los Angeles County Recorder in order to ascertain whether any properties standing of record in the name of the Worldwide Church of God or Ambassador College had recently been sold or transferred to others. Attached hereto, collectively marked Exhibit A, are certified copies of eleven grant deeds executed between May 18 and November 2, 1978, by Ambassador College, conveying eleven different parcels of real property. According to the documentary transfer tax information reflected on the deeds, the selling price of these eleven parcels aggregated approximately $3,000,000. Most of the deeds were executed for Ambassador College by Stanley Rader or Ralph Helge. Among the transferees were Raymong Franklin McNair and his wife, known to me to be directors of Ambassador College; Bill M. Evans and his wife, Mr. Evans being a real estate broker who has handled many real estate matters for the Church for compensation; and Bernell C. Michel and Shirley Michel, who appear to be related to the Gene Michel who executed two of the deeds to other parties on behalf of the College. I do not know the full extent of the relationship between the other transferees and the Church or its affiliated companies.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of December, 1978, at Beverly Hills, California.

/s/ Shirley Timmons
SHIRLEY TIMMONS

APPENDIX E.

EMPLOYMENT AND CONSULTING AGREEMENT

This Employment and Consulting Agreement ("Agreement" herein) is made and entered into this 30th day of July, 1976, by and between Worldwide Church of God ("Church" herein), a California corporation headquartered in Pasadena, California, and Stanley R. Rader ("Rader" herein). This Agreement is made with reference to the following facts:

A. From 1957, when Rader first joined Church, until 1963, Rader served as the chief financial adviser and certified public accountant for Church and its related entities, which include Ambassador College and the Ambassador International Cultural Foundation, both of which are headquartered in Pasadena, California. During the period of 1964 to 1974, Rader served as general counsel and chief financial adviser to Church and its related entities. Since March 1975, Rader has served as and is presently serving as a director, executive vice-president, executive director, vice-president for financial affairs, secretary-treasurer and general counsel for Church and/or its related entities.

B. Rader, in addition to possessing exceptional managerial skills, is a certified public accountant and an attorney licensed to practice law in the State of California. Prior to 1969, Rader had developed excellent professional practices in both law and accounting which provided him with independent financial security. In 1969, Church's founder, Herbert W. Armstrong, requested that Rader devote all of his time to Church and its related entities instead of engaging in the practices of law or public accountancy. Although such commitment required him to abandon his professional practices in both law and accountancy developed over a period of many years, Rader agreed to serve Church full time. Both Church and Rader recognize that Rader's commitment to

Church has resulted in tremendous professional sacrifices by Rader, particularly since Rader has been unable to maintain the skills and client contacts sustainable only through the conduct of a full-time legal and accounting practice.

C. Church recognizes the substantial, unselfish contributions which Rader has made to Church and its related entities, and now desires to enter into this Agreement with Rader to assure Church of the continued services of Rader, to assure Rader security with Church, and to set forth the rights and duties of the parties hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and promises and agreements herein contained, the parties agree as follows:

1. *Employment.*

For the duration of the Employment Period (as defined in Paragraph 2), Church hereby employs Rader and Rader accepts and agrees to such employment, upon the terms and conditions hereinafter set forth. During the Employment Period, Rader's duties shall involve and be controlled by the following:

1.1 Rader's sole duty shall be to act as the Chief Adviser to Herbert W. Armstrong, Chairman and President of Church, in connection with Mr. Armstrong's efforts to promote and enhance the image of Church throughout the world. The duties of Rader shall consist of accompanying and assisting Mr. Armstrong in his travels around the world promoting social, health, educational and charitable activities in other countries to enhance the image of Church and for the purpose of developing other international congregational branches of Church.

1.2 Rader's title shall be "Chief Adviser," and no other person or entity employed or engaged by Church shall be given such title.

1.3 As the Chief Adviser, Rader shall be given absolute discretion in performing his advisory duties; in particular, Church desires that Rader be given as much freedom as possible consistent with his employment obligations to make suggestions, make recommendations and otherwise give advice to Mr. Armstrong.

1.4 With the objective of permitting Rader to devote his full time to advising Mr. Armstrong, Rader is hereby relieved of and shall not be given nor assume those functions, responsibilities or duties customarily performed by officers or other personnel of a corporation engaging in the same or similar enterprises as those engaged in by Church.

1.5 Rader shall devote all of his working time to act as Chief Adviser to Mr. Armstrong, but in any case not any more time than Mr. Armstrong devotes to Employer as its President and Chairman of the Board.

2. *Term of Employment.*

Subject to the provisions for earlier termination as provided in Paragraph 4, Rader's term of employment by Church (the "Employment Period" herein) shall commence on July 30, 1976, and shall continue for a period of seven (7) years terminating at midnight on July 29, 1983.

3. *Compensation.*

During the Employment Period, Rader shall receive the following compensation and coverages:

3.1 *Salary.*

For all of his services as Chief Adviser, Rader shall receive a salary of Two Hundred Thousand Dollars ($200,000.00) per year. Each year during the Employment Period, Rader's annual salary shall be payable in at least twelve (12) equal consecutive monthly installments.

3.2 *Expenses.*

Church shall pay for all expenses incurred by or on behalf

of Rader in performing as Chief Adviser, including but not limited to all travel, lodging, entertainment and meal expenses. Recognizing that Rader will be traveling around the world meeting with many dignitaries, including Heads of States, in all cases Rader shall be provided with first-class accommodations at Church's expense. All out-of-pocket expenses incurred by Rader in the performance of his duties as Chief Adviser shall be promptly reimbursed by Church to Rader within thirty (30) days after Rader's incurrence thereof.

3.3 *Fringe Benefits.*

Vacations, sick leaves, employee group insurance and other fringe benefits for Rader shall be in accordance with Church's personnel policies governing its senior executives, and if no such policies have been adopted, as Church may authorize from time to time, such authorization not to be unreasonably withheld.

3.4 *Automobile.*

Each year during the Employment Period, Church shall provide to Rader, by purchase, lease, or otherwise (at Church's expense), a motor vehicle suitable to Rader's status and needs in the performance of Rader's duties as Chief Adviser. Said motor vehicle shall be a late model 6-passenger automobile, not older than three (3) years.

4. *Termination as Chief Adviser.*

During the Employment Period, the employment of Rader as Chief Adviser may be terminated only in the event of any of the following:

4.1 Mutual written agreement, signed by both Church and Rader.

4.2 The death of Rader.

4.3 Rader's habitual intemperance, habitual refusal to work that amount of time required by Paragraph 1 (other

than because of a "Partial Disability" or "Total Disability", as such terms are defined in Paragraph 6), and/or conviction of a crime involving moral turpitude.

4.4 Herbert W. Armstrong's death, Total Disability or Retirement. As used in this subparagraph: "Total Disability" means any injury, illness or other physical or mental condition which results in Mr. Armstrong being able to perform only less than fifty percent (50%) of his "normal working time" (as defined in subparagraph 6.3, except that for purposes hereof only, the name "Mr. Armstrong" shall be substituted for "Rader") as President and/or Chairman of Church. "Retirement", means Mr. Armstrong's withdrawal from or curtailment of his activities as an employee of Church at *any* time which results in Mr. Armstrong not performing at least fifty percent (50%) of his "normal working time" (as defined in subparagraph 6.3, subject to the immediately preceding exception) as the President and/or Chairman of Church, for *any* reason, whether because of termination of his employment or otherwise, whether voluntary or involuntary, *other than* solely because of Mr. Armstrong's sufference of a disability. If Mr. Armstrong voluntarily announces that he is going into Retirement and withdraws from or curtails his activities as an employee of Church, then he shall be deemed to have gone into Retirement.

5. *Change of Status to Independent Senior Consultant.*

5.1 Events Resulting in Change of Status.

Upon the first to occur of the normal expiration of the seven (7) year Employment Period or Herbert W. Armstrong's death, Total Disability (as defined in subparagraph 4.4 above) or Retirement (as defined in subparagraph 4.4 above), Rader's employment as Chief Adviser shall thereupon terminate, at which time (1) the provisions of Paragraphs 1 through 4 shall be of no further force or effect and

(2) the provisions of this Paragraph 5 shall immediately and automatically take effect and control the relationship between Church and Rader. The first of said events to occur is hereinafter referred to as the "Triggering Event."

5.2 *Consulting Services to be Performed by Rader.*

For the duration of the Consulting Period (as defined in subparagraph 5.3), Church engages Rader as an independent contractor, and Rader hereby accepts and agrees to such engagement, upon the terms and conditions hereinafter set forth. During the Consulting Period, Rader's obligations shall involve and be controlled by the following:

5.2.1 Rader's obligations shall be to act as a consultant to Church; which obligations shall primarily involve making suggestions, making recommendations and otherwise giving advice to Church in regard to those areas of management in which Rader has substantial expertise as set forth in recital A to this Agreement.

5.2.2 Rader's title shall be "Senior Consultant", and no other person or entity employed or engaged by Church shall be given such title.

5.2.3 Provided that the extent of the services required is reasonable, Rader agrees to act in any of the positions held by him immediately prior to the execution of this Agreement.

5.2.4 In any event, Rader may be required to devote up to, but not in excess of, one-half of his working time each year in acting in this independent contractor capacity, which in no case shall exceed fifty percent (50%) of his "normal working time" (the time actually so expected of Rader is hereinafter referred to as "Consulting Time").

5.3 *Consulting Period.*

Subject to the provisions for earlier termination as provided in subparagraph 5.5, Rader's term of engagement as Senior Consultant by Church (the "Consulting Period")

shall commence on the occurrence of the Triggering Event and shall continue until midnight on July 29, 2003, when this Agreement shall terminate; thereafter, said engagement shall be subject to renegotiation by and between Church and Rader upon terms and conditions mutually agreeable to both parties.

5.4 *Compensation.*

During the Consulting Period, Rader shall receive the following compensation and coverages:

5.4.1 *Salary.*

For all of his services as Senior Consultant, Rader shall receive a salary of One Hundred Thousand Dollars ($100,000.00) per year. Each year during the Consulting Period, Rader's annual salary shall be payable in at least twelve (12) equal consecutive monthly installments.

5.4.2 *Expenses.*

Church shall pay for all expenses incurred by or on behalf of Rader in performing as Senior Consultant, including but not limited to all travel, lodging, entertainment and meal expenses. In all cases, Rader shall be provided with first-class accommodations at Church's expense. All out-of-pocket expenses incurred by Rader in the performance of his obligations as Senior Consultant shall be promptly reimbursed by Church to Rader within thirty (30) days after Rader's incurrence thereof.

5.5 *Termination as Senior Consultant.*

During the Consulting Period, the engagement of Rader as Senior Consultant may be terminated only in the event of any of the following:

5.5.1 Mutual written agreement, signed by both Church and Rader.

5.5.2 The death of Rader.

5.5.3 Rader's habitual intemperance, habitual refusal to work that amount of time required by subparagraph 5.2.4 (other than because of a "Partial Disability" or "Total Disability", as such terms are defined in Paragraph 6), and/or conviction of a crime involving moral turpitude.

6. *Disability Definitions.*

For purposes of this Agreement, the following definitions shall apply:

6.1 *Partial Disability.*

"Partial Disability" means any injury, illness or other physical or mental condition which results in Rader being able to perform more than fifty percent (50%) but less than one hundred percent (100%) of his (1) "normal working time" (as defined in paragraph 6.3) as the Chief Adviser during the Employment Period or (2) "Consulting Time" as the Senior Consultant during the Consulting Period, as appropriate.

6.2 *Total Disability.*

"Total Disability" means any injury, illness or other physical or mental condition which results in Rader being able to perform only less than fifty percent (50%) of his (1) "normal working time" as the Chief Adviser during the Employment Period or (2) "Consulting Time" as the Senior Consultant during the Consulting Period, as appropriate.

6.3 *Normal Working Time.*

"Normal working time" means the performance of those hours of services by Rader customarily expected of a person in Rader's position; provided, however, that in no event shall said time exceed the average number of hours which Rader has devoted to Church in the performance of his services per year based on the three (3) most recently completed calendar years during which Rader has served Church in any capacity.

7. *Payments in the Event of Disability.*

7.1 *Partial Disability.*

In the event that Rader shall suffer a Partial Disability, Rader shall be entitled to receive, during the Disability Period (as defined in subparagraph 7.3), all compensation, benefits and other converages, without diminution in any case, which he otherwise would have received had he worked full time and performed all of his services pursuant hereto during such period. For example, if Rader suffers a Partial Disability during the Employment Period, he shall receive all of the compensation and coverages provided for in Paragraph 3 for the duration of such disability; provided however, that if such disability continues into the Consulting Period, Rader shall upon commencement thereof receive all of the compensation and coverages provided for in Paragraph 5.4 for the duration of such disability (but not beyond the Consulting Period).

7.2 *Total Disability.*

In the event that Rader suffers a Total Disability, Rader shall be entitled to receive, during the Disability Period, all compensation, benefits and other coverages, without diminution in any case, which he otherwise would have received had he worked full time and performed all of his services pursuant hereto during such period, until the period of Total Disability shall aggregate twelve (12) consecutive months; thereafter, for each consecutive calendar month subsequent thereto that Rader continues to suffer the Total Disability, Rader shall be entitled to receive disability payments from Church equal to Twelve Thousand Five Hundred Dollars ($12,500) for each such month of disability, payable on the last day of each such month.

7.3 *Duration of Payments.*

In the event of a Partial Disability or a Total Disability, Rader shall be entitled to receive all compensation, benefits

and other coverages pursuant to the foregoing subparagraphs of this Paragraph 7 from the date such disability commences until the earlier to occur of the date such disability terminates or the date the Consulting Period terminates (said period is herein referred to as the "Disability Period"). If Rader recovers from any disability prior to expiration of the Consulting Period, he shall continue working for the Church pursuant hereto as the Chief Advisor or Senior Consultant, as appropriate.

8. *Non-Competition Covenant.* Rader shall not, without the prior written consent of Church, during the term of this Agreement, engaged in any business directly competitive with Church's activities as conducted on the date this Agreement is executed, whether alone, as a partner or member, or as an officer, director, employee or shareholder of any other corporation. Ownership of not more than five percent (5%) of the stock of any publicly held corporation shall not be deemed to be so competitive or adverse.

9. *Severable Provisions.*

The provisions of this Agreement are severable and if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions, and any partially unenforceable provision to the extent enforceable in any jurisdiction, shall, nevertheless, be binding and enforceable.

10. *Dissolution, Merger or Consolidation.*

This Agreement shall not be terminated by the voluntary or involuntary dissolution of Church or by any merger or consolidation where Church is not the surviving or resulting corporation, or upon any transfer of all or substantially all of the assets of Church. In the event of any such merger or consolidation, or transfer of assets, the provisions of this Agreement shall be binding on and shall inure to the benefit

of the surviving or resulting corporation or the corporation to which such assets shall be transferred.

11. *Assignment.*

The rights of Church (but not its obligations) under this Agreement may, without the consent of Rader, be assigned by Church to any parent, subsidiary, affiliate or successor of Church pursuant to a merger, consolidation or transfer of assets as provided in Paragraph 10. Except as provided in the preceding sentence, Church may not assign any or all of its rights, duties or obligations hereunder without the prior written consent of Rader. The rights and obligations of Church under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of Church.

12. *Hold Harmless.*

During the Employment Period and the Consulting Period, Church shall save Rader harmless from and against any loss or damages howsoever caused by reason of any injuries or damages (whether to body or to property, or to personal or business character or reputation) sustained by any person or to any property by reason of any act, neglect, default or omission of Church or Rader while acting in his capacity as the Chief Adviser or the Senior Consultant, and Church shall pay all sums to be paid or discharged in case of an action for such damages or injuries. If Rader is sued in any court for damages on the basis of any of the reasons referred to in this Paragraph 12, Church shall defend said action at its own expense and shall pay and discharge any judgment that may be rendered against Rader in any such action; if Church fails or neglects to so defend in said action, Rader may defend the same and any expense, including reasonable attorneys' fees, which Rader may pay or incur in defending said action and the amount of any judgment

which Rader may be required to pay shall be repaid to Rader by Church immediately upon demand.

13. *Notices.*

All notices, requests, demands and other communications shall be in writing and shall be deemed to have been duly given if personally delivered or if mailed by certified or registered mail, postage prepaid, addressed as follows:

To Rader:

840 Loma Vista
Beverly Hills, California 90212
To Church:
300 W. Green St.
Pasadena, California

Any party may change its address for purposes of this Agreement by written notice duly given as aforesaid to the other party hereto.

14. *Attorneys' Fees.*

In the event of any legal action arising under this Agreement or by reason of asserted breach hereof, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in enforcing or attempting to enforce any of said terms, convenants or conditions, including costs incurred prior to commencement of legal action and all costs and expenses, including reasonable attorneys' fees, incurred in any appeal from an action brought to enforce any of said terms, covenants or conditions.

15. *Representation and Warranty re Authority of Church.*

Church represents and warrants that (1) it is a corporation duly organized, existing, and in good standing under the laws of California; and (2) the execution and delivery of this Agreement by Church and the performance of Church's obligations hereunder have been duly authorized, and no

further corporate authorization is necessary on the part of Church.

16. *Waiver.*

Either party's failure to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions, nor prevent that party thereafter from enforcing each and every other provision of this Agreement. The rights granted both parties herein are cumulative and shall not constitute a waiver of either party's right to assert all other legal remedies available to it under the circumstances.

17. *Titles and Headings.*

Titles and headings to paragraphs hereof are for the purpose of reference only and shall in no way limit, define or otherwise affect the provisions hereof.

18. *Governing Law.*

The parties hereto agree that it is their intention and covenant that this Agreement and performance hereunder and all suits and special proceedings hereunder be construed in accordance with and under and pursuant to the laws of the State of California, United States of America, and that in any action or other proceeding that may be brought arising out of or in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or proceeding may be instituted and without reference to California's conflict of laws rules.

19. *Entire Agreement.*

This Agreement supersedes all prior agreements and understandings between the parties and may not be modified or terminated orally. No modification, termination or attempted waiver shall be valid unless in writing, signed by the party against whom the same is sought to be enforced.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first set forth above.

WORLDWIDE CHURCH OF GOD ("CHURCH")
/s/ By Herbert W. Armstrong
Herbert W. Armstrong, President
By Garner Ted Armstrong, Executive
Vice President
/s/ Stanley R. Rader
Stanley R. Rader

EMPLOYMENT AND CONSULTING AGREEMENT ADDENDUM

This is an Addendum to the Employment and Consulting Agreement (''Agreement'' herein) and is made and entered into this 25th day of August, 1976, by and between the Worldwide Church of God (''Employer'' herein), a California corporation, and Stanley R. Rader.

Notwithstanding recitations to the contrary, should Mr. Herbert W. Armstrong die or become permanently disabled during the employment period, Rader shall forthwith become Chief Adviser to Garner Ted Armstrong and shall serve him and the Church (''Employer''), as well as its related or affiliated entities in the same manner as he had previously served Mr. Herbert W. Armstrong and the Church.

Employer shall have the option to renew the employment period for another seven-year period under the same terms and conditions as the present Agreement, but, should Employer elect not to renew the Agreement, then, and only then, shall the consulting aspects of the Agreement become effective.

Furthermore, Rader's salary during the *Employment* period and in the case of a renewal of the Agreement shall be at the rate of $175,000.00 per year instead of the $200,000.00 as previously stated.

In witness whereof, all parties have duly executed this Agreement on the day and year first set forth above.

WORLDWIDE CHURCH OF GOD
(Employer)
By: HERBERT W. ARMSTRONG
President and Chairman of the Board
/s/ By: Garner Ted Armstrong
GARNER TED ARMSTRONG
Executive Vice President
/s/ By: Stanley R. Rader
STANLEY R. RADER
Employee

APPENDIX F.

Excerpts From Reporter's Transcripts of Hearings in Los Angeles Superior Court, March 12 and 15, 1979

From transcript of March 12, 1979 hearing, page 56:

MR. BROWNE: Now, Your Honor, there is one other point, and that is the integrity of the assets, which was the first point Your Honor mentioned. I just don't see any reason to worry about that since there's been no proof that there have been any assets gone or missing. That's been a claim. And the prohibitory injunction protects the court in that regard. That part of the court's order prohibiting the transfer of personal property, real property, and the destruction of any documents, will be maintained in effect, without any question. That's not affected or stayed on appeal.

So, Your Honor, with this additional information, I would urge the court to reconsider its initial thoughts on whether my clients are anxiously fighting against the audit. Not at all. The only thing we are trying to do is preserve the rights that Mr. Horvitz mentioned. Those constitutional rights which we believe are appropriate.

And if Your Honor will recall when you made the order, we resisted—we resisted—three-quarters of that order. It took two hours to hammer out that order in this court. And one point after another we resisted. And I think it's fair inference from my resistance, Your Honor, that we were not going to waive our rights in that connection.

THE COURT: No one has suggested that you have or you should.

MR. BROWNE: Good, Okay.

From Transcript of March 15, 1979, page 16:

MR. BROWNE: Your Honor, let me make the statement—

THE COURT: Let met just say this, Mr. Browne: You are not going to change my mind. The receiver is going in with an auditor or the receiver is going in without an auditor. And it is just that simple, and I am not going to change that.

MR. BROWNE: Your Honor, the audit can go forward. The only thing that happened was, the order which this court made on March 12, which I resisted for two hours, in various material respects, the court will recall that, I never said that that order was acceptable. I mean the inference was directly to the contrary.

The thing that I would like to point out, Your Honor, is that the audit can go forward, and I suggested that to the Attorney General, pursuant to subpoena re depositions, request for production of documents, like any other lawsuit. They are not stayed on appeal.

THE COURT: I don't think they are obligated to perform an audit with the use of discovery processes, Counsel, which is what you are suggesting: Let's stop everything and let's let them provide through discovery departments of this court and secure an audit by getting an order once a day and have you contest it and then go forward again and get another order and have you contest it, further responses, further objections.

APPENDIX G.

Excerpts From Reporter's Transcript of the September 21, 1979 Hearing in Los Angeles Superior Court, Pages, 25-27.

THE COURT: Let's don't spend a lot of time on this because you really will run on the ragged edge if you do. You have spent weeks and months maintaining a position, and I know that you do it in good faith or at least, I believe it, and that's close to knowing it, and you have put in the way of the plaintiff every road block you can envision, and you are very competent counsel, and I complimented the defense manytimes on the caliber and execution of the documents, and on its persistent and resourceful and really exemplary representation of the position of the defense and the church and the church members believe and I believe that they believe that they are in the right; they believe that they can spend their money in a religious way any way that they want, and I am not at all sure that they cannot do that, and I don't consider that anything I have done has said that they could not spend the money any way they want in the workings and operation of their church, and when I stayed discovery on behalf of the defendants to this date, it was not, believe me, in a moment of pique. It was because, I think, elemental fairness requires that each side have a chance to proceed with discovery, and you have done and you are doing everything that you can do to prevent any discovery by the plaintiff, and since, if I understand the plaintiff's postion at all, it is really that, if there is a problem, Mr. Rader is the heart of the problem, and so the plaintiff seeks to depose Mr. Rader, and Mr. Rader resists that in every way that he can, and, as you are aware, Mr. Brown, for many weeks and months the court allowed discovery to go forward by the defendant, partly because of various problems you were having with the relators and because I expected that the problems with respect to making some discovery by the defendant would be resolved, but we came to a point, and I believe we are still at the point where it is clear that you on behalf of your client intends to make no discovery at all unless ordered to do so by a court considerably higher than this court, and I see no real reason to continue to allow the court's processes to be used by your clients when your clients have no intention of making discovery themselves. I would also remind you that we have here a number of different entities and defendants, and I believe that today we are talking about discovery and documents which are really discovery and documents having to do with people and entities which have done business with the church, and I believe that these records are records of doing business with the church, and not necessarily in and of themselves church records as such. Now, so far nothing that I have heard would cause me to lift that stay. I look forward as you do to some instruction from another level of the judicial system if some instruction is going to be forthcoming as to what is the proper path here, and what should the court do, and what should the parties do, and, as you are aware, it's only been as a result of the court's ruling this week that this matter is finally to be at issue since, I think, you have from thirty days from early in the week to file an answer, and we are nine months plus into the case. . . .

APPENDIX H.

Excerp From Articles of Incorporation of
Worldwide Church of God

The purpose, business and pursuit of this corporation will be. . .

(d) To do each and every thing necessary, suitable, convenient, or proper for the accomplishment: of any one of the purposes or the attainment of any one or more of the objectives herein enumerated, or conducive to or expedient for the interest or benefit of the corporation and to contract accordingly; and, in addition, exercise and possess the powers, rights and privileges necessary or incidental to the purposes for which this corporation is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges granted by the laws of the State of California to ordinary corporations, except such as are inconsistent with the express provisions of Title XII, Article I, of the General Nonprofit Corporation Law of the State of California.

This corporation is one which does not contemplate pecuniary gain or profit to the members thereof. The source of income is gratuities, legacies, bequests, tithes and offerings from members and the public.

ARTICLE IV.

The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

[Names Omitted]

The number of persons named above shall constitute the number of directors of the corporation, until changed by an amendment to the by-laws increasing or decreasing the number of directors.

EXCERPT FROM
CERTIFICATE OF AMENDMENT
OF
ARTICLES OF INCORPORATION
OF
WORLDWIDE CHURCH OF GOD

2. That at a meeting of the board of directors of said corporation, duly held at 363 Grove Street, Pasadena, California, on January 5, 1968, the following resolution was adopted:

RESOLVED: That ARTICLE VIII is hereby added to the Articles of Incorporation of this corporation to read in full as follows:

ARTICLE VIII

"Upon the winding up and dissolution of this corporation, after paying or adequately providing for the debts and obligations of the corporation, the remaining assets shall be distributed to a nonprofit fund, foundation or corporation, which is organized and operated exclusively for charitable, educational, religious and/or scientific purposes and which has established its tax exempt status under Section 501 (c) (3) of the Internal Revenue Code. If this corporation holds any assets in trust, such assets shall be disposed of in such manner as may be directed by decree of the Superior Court of the County in which this corporations' principal office is located, upon petition therefor by the Attorney General or by any person concerned in the liquidation."

APPENDIX I.

Excerpt From March 2, 1979 Order Dissolving Receivership, Pages 1 and 2.

Superior Court of the State of California, for the County of Los Angeles.

Case No. C 267 607.

The order to show cause re continuation of the receivership in the above-entitled matter came on for hearing in Department 48 of the above-entitled Court on February 21, 1979, at 10:00 A.M., before the undersigned. Plaintiffs and relators were represented by Lawrence Tapper, Hillel Chodos, and Rafael Chodos, Esqq. Defendants were represented by Ervin, Cohen and Jessup and Allan Browne, Ellis Horvitz, David Harney and Marshall Morgan, Esqq.

Defendants have moved this Court to dissolve the receivership, asserting that the purposes and objectives of the receivership in examining the financial affairs and protecting the assets can be achieved successfully through the medium of injunctive orders, with which defendants have assured the Court that they will comply. Accordingly and upon the application of defendants, in order to afford them an opportunity to permit the accomplishment of the said purposes and objectives without a receivership; and in order to preserve and protect the assets of the defendant nonprofit corporations, and to ensure that the Attorney General's financial review shall be completed as soon as is practicable; and after full consideration of the moving and responding papers filed in the matter, and of the additional evidence presented at the hearing; and after argument and due consideration of all matters presented; the Court hereby orders as follows:. . .

APPENDIX J.

Declaration of Lauren R. Brainard in Support of Motion to Hold Defendants' Discovery in Abeyance.

Superior Court of the State of California, for the County of Los Angeles. No. C 267 607.

I, Lauren R. Brainard, declare:

1. I am an attorney at law duly licensed to practice in all the courts of the State of California. I am a Deputy Attorney General in the offices of George Deukmejian, Attorney General of the State of California, located at 3580 Wilshire Boulevard, Suite 500, Los Angeles, California 90010. As one of the counsel for the plaintiff, the People of the State of California, I have personal knowledge of the facts set forth herein below and, if called as a witness, could and would testify competently thereto.

2. Since the inception of these proceedings the defendants have obtained the following discovery:

A. Production of documents and or other things pursuant to Minute Order of May 29, 1979. Plaintiff supplied copy to defendants on June 29, 1979.

B. Responding to the same said Minute Order of May 29, 1979, plaintiff supplied to defedants a listing of all "church documents in plaintiff's possession." The said listing consisted of 54 pages containing 819 items.

C. Deposition of Benjamin Roy Chapman on April 9, April 23, April 27, May 17 and to be continued July 13, 1979. Plaintiff has not had an opportunity to ask any questions of Mr. Chapman to date.

D. Obtained General Telephone Company records and documents via SDT on or about May 18, 1979.

E. Deposition of Robert F. Kuhn on or about May 18, 1979 which was not completed but rather adjourned without plaintiff having been given the opportunity to examine Mr. Kuhn. Mr. Kuhn supplied documents pursuant to SDT which documents were sequestered by defendants' counsel. They are the subject of a motion before this court with hearing continued to July 17, 1979 to allow defendants the opportunity to designate specific documents which they believe are priviledged or otherwise shielded from the discovery of plaintiff.

F. Defendants have also obtained documents from David Antron and C. Wayne Cole pursuant to SDT which they have not made available to plaintiff. These documents were supplied to defendants counsel Allan Browne on or about June 1, 1979. C. Wayne Cole confirmed this fact at the time of his deposition on June 27, 1979 while David Antron declared this to be the fact to me during the course of telephone conversations during the week of June 4, 1979.

G. Deposition of C. Wayne Cole on June 27, 1979 which was not compeleted but rather adjourned at the end of the day without opportunity of plaintiff to examine Mr. Cole.

H. Deposition of John Tuit in New Jersey on June 13, 1979 which deposition was adjoured but not completed without opportunity for plaintiff to examine Mr. Tuit.

I. Deposition of Paula Tuit in New Jersey on June 14, 1979 which deposition was not completed but rather adjourned at the end of the day without opportunity for plaintiff to examine the deponent.

J. Deposition of relator Quinlan in New Jersey on June 15, 1979 without opportunity for plaintiff to examine Mr. Quinlan.

K. Deposition of Court Reporter Patricia Kupferer on July 3, 1979.

3. Plaintiff has obtained no discovery from defendants in these proceedings. Not a single document or other item has been produced and, with the exception of the attempted deposition of Stanely R. Rader on April 3 and April 4, 1979, which the court has found was not in compliance with his duty to make discovery, the plaintiff has not been accorded the opportunity to examine any witness by deposition. Neither have defendants responded other than by objection to any interrogatory propounded to defendants, whether corporate or individual. Attempts, thus far futile, to obtain discovery from defendants, excepting the matters of the deposition of Stanely R. Rader and Herbert W. Armstrong which are presently before the court on this motion, are as follows:

A. Subpoena duces tecum directed toward Bruce Bunner, partner in Peat Marwick and Mitchell, for production of records gathered while serving as employee of court appointed receiver, retired Judge Steven M. Wiseman. As the court is aware, defendants have moved for a protective order regarding said production, which motion was continued to July 17, 1979 in order that defendants may specify those documents which are claimed to be priviledged from discovery by the plaintiff. By telephone conference of July 3, 1979, I was informed by Allan Browne, counsel for defendants, that his office did not expect to be prepared to proceed by that date and would seek further continuance of that matter.

B. On or about May 18, 1979 requests for production of documents were served on each of the nonprofit defendant corporations. On or about June 13, 1979 the plaintiff received response to said request consisting entirely of objections. Plaintiff will be forced to make a Motion to Compel Production of Said Documents and Things.

C. On or about May 18, 1979 plaintiff served interrogatories on each of the nonprofit defendant corporations. On or about June 25, 1979 plaintiff received responses which consisted entirely of objections to said interrogatories. Plaintiff will be forced to make a Motion to Compel Answers to Said Interrogatories.

D. On or about June 5, 1979 the plaintiff served on Stanley R. Rader a Request for Production of Documents. On or about July 3, 1979 plaintiff received a response consisting entirely of objections. Plaintiff will be forced to make a Motion to Compel Production of Said Documents and Things.

E. On or about June 5, 1979 plaintiff served on defendant Henry Cornwall a Request for Production of Documents and Things. On or about July 3, 1979 plaintiff received a response thereto consisting entirely of objections. Plaintiff will be forced to apply to this court for an order compelling said production.

F. On or about June 5, 1979 plaintiff served on defendant Ralph Helge a Request for Production of Documents and Things. On or about June 26, 1979 plaintiff received a response thereto consisting entirely of objections. Plaintiff will be forced to apply to this court for an order compelling production.

G. On or about June 5, 1979 plaintiff served a Notice of Deposition on defendants Ralph Helge and Henry Corwall for July 16, and July 11, 1979 respectfully. On or about July 28, 1979 I received a telephone call from Allan Browne, counsel for defendants. He informed me that Messr. Rader and Cornwall would not appear for the depositions but rather would make a Motion for Protective Order to this court.

4. Defendants have pending the following discovery in these proceedings:

A. First Set of Interrogatories to the Plaintiff (1-71) with responses due on or about July 12, 1979.

B. Deposition of Ben Chapman to be continued on July 13, 1979.

C. Deposition of Earl Timmons on July 17, 1979.

D. Deposition of Shirley Timmons on July 18, 1979.

E. Deposition of Chester Roberson on July 19, 1979.

F. Third Set of Interrogatories Directed to Plaintiff (78-151) with responses due on or about August 8, 1979.

G. Deposition of Garner Ted Armstrong in Tyler, Texas on July 30, 1979.

H. Deposition of Hillel Chodos on August 1, 1979.

I. Deposition of David Morgan on August 2, 1979.

J. Deposition of William Evans on August 7, 1979.

K. Request of plaintiff to produce documents on July 25, 1979.

Executed this 6th day of July, 1979 at Los Angeles, California.

I declare under penalty of perjury the foregoing is true and correct.

[Signed by Lauren R. Brainard]

APPENDIX K.

Excerpts From the January 10-12, 1979 Hearing in Los Angeles Superior Court, Pages 216-226.

VIRGINIA N. KINESTON,

called as a witness by the relators, affirmed and testified as follows:

THE CLERK: Be seated and state and spell your name for the record, please.

THE WITNESS: Virginia N. Kineston, K-i-n-e-s-t-o-n.

DIRECT EXAMINATION

BY MR. CHODOS:

Q. Mrs. Kineston, you are Mr. Rader's secretary?

A. That's right.

Q. How long have you acted in that capacity?

A. One year and approximately two months.

Q. You are married to John Kineston, who is his administrative assistant and limousine chauffer?

A. That's correct.

Q. Now, Mrs. Kineston, you have filed two affidavits or declarations in this proceeding, have you not?

A. That's correct.

Q. And, Mrs. Kineston, just to review briefly for background, you were physically on the premises in the fourth floor suite of offices on the morning of Wednesday, January 3, when Judge Weisman first arrived?

A. Yes, I was.

Q. And it is correct, is it not, that someone came to the door at around 9 o'clock, or a few minutes after, and said they had a court order and wanted to come in and take some records?

A. I cannot remember that Mr. Chodos said he had a court order. He shoved a piece of paper in my face and told me that that gave him the authority to come in and confiscate our records.

I asked him if I could have time to call my attorney. He said no, he had to have the records first and then I could call my attorney.

And I told him I haven't read the paper yet and didn't know what it said. And he told me that it gave him the authority to come in and take the records.

And I told him I wasn't doing anything until I talked to my attorney.

Q. That gentleman was Mr. Rafael Chodos?

A. Yes.

Q. You called Mr. Rader first thing?

A. Yes.

Q. He told you not to do anything until the orders were examined by a lawyer?

A. Mr. Rader asked me who it was, and I said I don't know who the people are.

He said is he a private attorney, and I said yes.

And he said, well, we have to get counsel on it.

Q. You then locked the door?

A. No. The door was locked before that.

I opened the door and let him in. I shoved the door and locked it again. I told him I was not letting him in.

Q. Then you locked all the doors to that suite?

A. Correct.

Q. Then shortly afterwards, as your declaration indicates, the agents of the Department of Justice turned off the power to an elevator that runs—private elevator that runs from that fourth floor suite to the ground floor?

A. Yes.

Q. And somebody was trying to go down that elevator with records?

A. They weren't records that belonged in our office. They had been delivered to us that very morning when our office was under siege, and I wanted them out. They didn't belong to the corporation. They belonged to a legal—you know, some attorneys, and they didn't belong to us.

He told us he was trying to confiscate our records, and I said get them out, they are not ours.

Q. They belonged to Rader, Helge and Gerson?

A. I assumed they were.

Q. That was the church legal office?

A. They are not part of our executive office, no.

Q. Now, Miss Kineston, ultimately the doors were not opened until around 3 o'clock in the afternoon; isn't that right?

A. Correct.

Q. And they were opened by a security man from the college named Mr. Sprouse?

A. Correct.

Q. At that time I came in, and Raphael Chodos came in and some other people came in?

A. A swarm of people came in.

Q. Yes. You have described it as like a Nazi swarm and so on?

A. Correct.

Q. And the first thing you did, Miss Kineston, was call Mr. Rader; isn't that right?

A. No. I did not call Mr. Rader. I called Mr. Helge.

Q. And what did you tell him?

A. I told him that they had broken into the office, that they were swarming all over the place, grabbing things up. They wouldn't give me an opportunity to go through the office with any kind of order whatsoever. They were running in and out of doors.

I was trying to get our secretaries to go with them and escort them to make sure they didn't confiscate things or stick things in their pockets or briefcases.

Q. Now, Miss Kineston, just a couple of other matters.

You learned at some point that there were allegations of paper shredding?

A. Yes, I did.

Q. And you filed a special supplemental declaration; did you not?

A. Yes, I did.

Q. On the Fifth day of January, 1979, for the hearing on Friday evening?

A. Correct.

Q. And what you explain in here is that you are responsible for running the day-to-day administrative matters of our office, and are generally in staff work for Mr. Rader, and at no time have you or any other person working in the office destroyed any document, book, financial record or other matter generated or belonging to the church, foundation or college; is that right?

A. That's probably—that is what I said. Anything that is original, no, I have never destroyed, ever.

Q. Well, let me read you paragraph 3:

> "When we moved in the offices we found a small paper shredder, about the size of a wastepaper basket, in one of the offices which previously had been occupied by an assistant to Garner Ted Armstrong."

A. Correct.

Q. Now, Miss Kineston—

A. It is Mrs. Kineston.

Q. Mrs. Kineston. Mrs. Kineston, have you used the shredder?

A. Of course.

Q. You have used the shredder?

A. Of course I have used the shredder. We get all kinds of weird mail in our office. We get pornography up there. I put it in the paper shredder.

Q. Did you use the shredder on the day that Judge Weisman was out there?

A. I did not.

Q. Did anybody in your office use the shredder on that day?

A. I cannot testify to what other people did. I did not use the shredder.

Q. Well, as a matter of fact, Mrs. Kineston, it is true, is it not, that this shredder was regularly used?

A. In—yes.

Q. In your offices, up to and including the day that Judge Weisman came up there?

A. Of course. I have never denied that.

Q. Well, is there any document that you destroyed in this shredder that you did not include within the following phrase? Let me read you the sentence again from your declaration.

> "At no time have I or any other person working in this office destroyed any document, book, financial record or other matter generated or belonging to the church, foundation or college."

A. May I explain something, Your Honor?

THE COURT: Go ahead.

THE WITNESS: Everything that we have in our office is a duplicate of something that has been generated somewhere else within the college or church confines. Every financial record that I have ever had in that office has usually been generated, sent to me by Mr. Bickett, who is the head of our data processing and accounting firm.

If I have shredded them, it is because we have no use for them. They are totally overwhelmed with files, memo type, in our office. I have never shredded anything that can't be duplicated immediately.

THE COURT: Have you ever thrown anything away without shredding it?

THE WITNESS: Constantly.

THE COURT: Why would you want to shred junk mail?

THE WITNESS: Because we have people that—you have to understand about the organization. We have people within our organization that are not particularly friendly to the organization, but they get the paycheck from them. They like to go through the mail when it comes out of the executive suite and pick up things, and thinking they have got some kind of confidential information.

Usually—I got a letter one day addressed to Mrs. Rader, homemaker, and when I opened it up the filth was incredible, pictures from Hustler magazine and stuff like this. Well, we don' read Hustler magazine. So I put it in the paper shredder. I am not going to keep things like that in my file.

THE COURT: Anything further?

MR. CHODOS: One more thing.

Q. Do you have someone in your office whose initials are V. S.?

A. Yes, Valerie Searles.

Q. What does she do?

A. She is our file girl, and she is the general office girl for us.

Q. Mrs. Kineston, after we read your declaration, we had some of the shredded contents of your destroyed shredder reassembled.

A. Fine.

Q. And this is one of the papers. This is a copy of one of the reassembled documents.

A. Okay. I understand. I understand what this is about.

First of all, Judge Weisman's name—which she can testify to—this is Judge Weisman's name, was not on the message to begin with, and Mr. Kent McNeil, who called in during all of the confusion up there the day, you know, they were trying to come into the office, and for music of America, he is something. I don't know what it was Valerie said, "I said what does he want?" "I think he wants money."

You have to understand we have a foundation that supports certain, you know, charitable functions, whatever, sometimes crippled children, or whatever, and people will call in and ask us to send them a check in support, or whatever the thing is.

Then during the course of the day, for some reason, Valerie explained it to me, and at this moment I can't remember the exact explanation. I am sure she can give it to you.

She wrote Judge Weisman's name down on the top of this. More crap is all it was. She was just being cute. You have to know Valerie to understand. She thought that was cute.

Q. I think it is cute too.

A. I do too.

Q. Mrs. Kineston, will you explain this exhibit 7—may I—

THE COURT: May I see it, please.

MR. CHODOS: It is a Xerox of a reconstructed shredded document. We have the original, Your Honor. I think we have even the reconstituted document. The Attorney General would like to keep the original.

Q. We will be through in just a minute, Mrs. Kineston.

We have another reconstituted document from the destroyed one, Mrs. Kineston, which is a copy of a message from Kent McNeil, without Judge Weisman's name on it.

Do you remember seeing that before?

A. I—you are going to have to call Miss Searles. She is the one that wrote the thing.

THE COURT: Do you recall ever seeing it before?

THE WITNESS: Yes, yes. That is the one I recall that has Judge Weisman's name on top of it. I don't recall seeing this one.

MR. CHODOS: This one I will mark exhibit 8.

Q. I want to point out to you not only Judge Weisman's name, it doesn't have the V.S. initials at the bottom.

A. That is not my handwriting.

Q. My question is, can you tell me, Mrs. Kineston, why two copies of a message which was ultimately intended or related to Judge Weisman should have been put in the shredder on Wednesday?

A. I didn't put them in the shredder, so I don't know.

PAGES 229-241

JOHN M. KINESTON,

called as a witness by the relators, affirmed and testified as follows:

THE CLERK: Be seated and state and spell your name for the record, please.

THE WITNESS: John M. Kineston. J-o-h-n, M., K-i-n-e-s-t-o-n.

DIRECT EXAMINATION

BY MR. CHODOS:

Q. Mr. Kineston, you are Mr. Rader's chauffer and admnistrative assistant, are you not?

A. That would be a fair statement, I think.

Q. Mr. Kineston, is it correct that on Wednesday, the 3rd of January, sometime in the middle of the morning or toward noon you took a limousine to the transportation building and took a quantity of documents from the transportation building and put them in the limousine?

A. That is not true.

Q. Did you take any documents from their usual location, from the location where they were on Wednesday to transport them somewhere else?

A. I did not.

Q. You didn't take any documents?

A. I took no documents ever to—in my life have I taken any documents. I don't know what they are in a sense. I Don't deal with documents.

Q. All right. And do you have any recollection, Mr. Kineston, of taking the limousine to the transporation building on Wednesday morning and then going from there to the airport at Burbank?

A. I have no recollection of that whatsoever.

Q. All right. Mr. Kineston, did you talk to Mr. Rader any time, say, between 9:00 and 10:30 on Wednesday morning?

A. 9:00 and 10:30?

THE COURT: I take it you are referring to last Wednesday?

MR. CHODOS: Wednesday, the 3rd, yes.

THE WITNESS: This is the day of the raid; is that correct?

Q. BY MR. CHODOS: The day Judge Weisman came out to Pasadena.

A. I did not see Judge Weisman that day.

I did not—I did not have anything to do with any Burbank business. This Burbank business—

As far as I know, I have no knowledge of going to Burbank whatsoever.

Q. That is what you told me a minute ago.

A. State the question again.

Q. Did you talk to Mr. Rader at any time between 9:00 and 10:30 on the morning of the day Judge Weisman showed up in Pasadena?

A. To my knowledge, I did not.

Q. All right. Now, Mr. Kineston, I want to direct your attention to Saturday night and Sunday, the 6th—Let's talk about the period first from Friday night, the 5th, through Sunday night, the 7th.

A. You will have to guide me very carefully here. I don't recall everything I do hour by hour.

I have been rather busy the last week, so let's get it precise.

Q. I'll resist the temptation.

Mr. Kineston, at any time between Friday night, which is when the first court hearing was held before Judge Foster, you were there?

A. At the court hearing with Judge Foster on Friday night?

Q. That is when I served you with a subpoena.

A. Yes, you served me in a telephone booth outside the courtroom. Yes, that's correct.

Q. After you left the courthouse—that was an evening hearing—and after you left the courthouse and until Sunday night, did you have any occasion to enter or to go to the financial data processing building that the college maintains a couple of blocks north of the administration building?

Do you know the building I am talking about?

A. I will tell you it would have been absolutely impossible, because it was filled with guards.

I went near—before that I remember seeing a guard whom I assumed to be somebody, sort of a plainclothesman. And I—this is not on that day. This is on another day. So I had no reason to go there.

I haven't been anywhere near there since, as far as I know. I haven't been anywhere near the building.

Q. Let me see if I can get straight what you are telling me.

You are saying sometime before the court hearing, the evening hearing in Judge Foster's courtroom, you drove past the data processing building?

A. Sometime prior to that? Well, of course, that would be hundreds of times, of course, in my job.

I would say that I recollect it was prior to that that I remember seeing a guard posted out there. I believe that was on the day orginally in question I recall that.

I don't think it's relevant, probably, but I had no reason to go there. I'm simply saying that—

THE COURT: Listen to the question, please, and just answer the question.

THE WITNESS: Yes, Your Honor.

MR. CHODOS: I'll try and get you off the stand in a minute.

THE WITNESS: I think the answer is no.

Q. BY MR. CHODOS: I would like to clarify it a little more.

For our purposes, Mr. Kineston, we can confine ourselves to the period after you learned that Judge Weisman was at the college and that he had security guards, and so on.

After that, but before Judge Foster's hearing, I understand you drove past the data processing facility and you observed that there were security guards there?

According to my own testimony that I'm now adding, yes, that's correct.

I did—I don't know there were security guards. I'll be honest about this. I saw late model car parked out front. It could have been possibly yellow. I don't recall. I don't know who was in it, but it seemed to me that the gates were closed, which is very unusual.

So I saw this. I saw this. It was long before the period in question. So I'm simply stating that I would have no reason to even think I could get into that building.

Q. Okay, Mr. Kineston. What I'm trying to get at—

A. During your period in question I most assuredly definitely never went near the building.

Q. After you made that observation, you are telling us you never went near that financial data processing building until today?

A. To the best of my knowledge, I can't—

Can't you tell me it's impossible to get into the building, wasn't it?

THE COURT: Now, now, listen to the question, please.

The answer is to your knowledge you never did?

THE WITNESS: Your Honor, I apologize. I have never been in court before.

THE COURT: Go ahead.

Q. BY MR. CHODOS: And you are telling us, Mr. Kineston, that you have never, since you heard Judge Weisman was on the premises—you have not taken or removed any records or anything to do with church records?

A. Absolutely correct. That is true.

MR. CHODOS: Nothing further.

THE COURT: Any questions?

MR. BROWNE: Nothing, Your Honor.

THE COURT: You may step down. Thank you.

MR. CHODOS: Call Mr. Roberson to the stand, Your Honor.

CHESTER ROBERSON,

called as a witness by the relators, affirmed and testified as follows:

THE CLERK: Be seated and state and spell your name for the record, please.

THE WITNESS: My name is Chester Roberson. C-h-e-s-t-e-r, R-o-b-e-r-s-o-n.

DIRECT EXAMINATION

BY MR. CHODOS:

Q. Mr. Roberson, are you a member of the church?

A. Yes.

Q. A baptized member?

A. Yes.

Q. Are you also an employee at the church?

A. Yes.

Q. How long have you been employed?

A. 25 years, but including one year I went to college and worked part time.

Q. And what is your job now?

A. At the present I'm a small engine mechanic and have been for the last four or five or perhaps six years. But before that I was a gardener.

Q. Gardener?

A. Right.

Q. And you worked at the college at the campus in Pasadena every day?

A. Yes.

Q. What building do you normally report to work?

A. It's called the transportation building. I work in the rear of it.

Q. Mr. Roberson, you have been in the courtroom the last few minutes and just heard Mr. Kineston testify?

A. Yes.

Q. Do you know Mr. Kineston?

A. Not personally, but I have seen him at least once a week and maybe more oftern in that building, up in the front of it, when I go to get coffee.

Q. All right. You know who he is and what he does?

A. Yes.

Q. What you mean about when you say you don't know him personally, you mean you are not friendly with him?

A. No. No. And I'm sorry. I don't know what he does. I didn't know that.

Q. All right. In any event—By the way, Mr. Roberson, you are here under subpoena, are you not?

A. Right.

Q. Mr. Roberson, were you at the transportation building on Wednesday, January 3, Wednesday, a week ago?

A. Yes.

Q. And did you see Mr. Kineston at the building on that date?

A. Yes, I did.

Q. About what time was that?

A. The best I can remember it was between 3:00 and 3:30. I went to get a cup of coffee on my coffee break.

Q. What did you observe Mr. Kineston was doing? What did you see him do?

A. When I first observed Mr. Kineston, he was coming from a parked automobile inside of the garage building with something in his hands. What, I don't know.

It was approximately this wide and that thick (indicating). It looked like books, record books, but I don't know what it was.

MR. BROWNE: Objection, Your Honor. I'm going to move to strike "It looked like record books."

He said, quote, I don't know what it was, right after that. And that is speculation.

THE COURT: Describe it. What did you see?

THE WITNESS: Your Honor, what I saw Mr. Kineston have in his hands at that time was about that thick (indicating).

THE COURT: About three inches thick?

THE WITNESS: Approximately.

THE COURT: All right.

THE WITNESS: About that wide (indicating). THE COURT: About a foot wide.

THE WITNESS: And the same length (indicating).

THE COURT: All right.

BY MR. CHODOS: Mr. Kineston, I am going to show you—I am sorry, I beg your pardon. Please forgive me,

I am going to show you some accounting ledgers that I have in my briefcase.

Were the objects you saw in Mr. Kineston's hands similar to these in any way?

MR. BROWNE: Objection, Your Honor. Now the witness has described what he said he thought he saw, and to lead him with these books—this is his witness. I don't think it is appropriate.

I would object that it is leading. He has described it to the best of his ability.

THE COURT: Overruled.

THE WITNESS: Yes, they did.

Q. BY MR. CHODOS: Now, tell us what happened next.

A. Next, I stepped out of the place I was in before this happened. I was getting a cup of coffee. Then I see a young lady in the stand over there hand Mr. Kineston something. I don't know, again, what it was. It looked like a transmittal envelope that at the place where I have used interoffice transmittal envelopes, and I then saw Mr. Archie Hall also was handing something, and I didn't—I couldn't tell what that was.

Q. Now, you identified a lady—you pointed to a lady. You mean the lady here in the courtroom?

A. Yes. I see her. She is a secretary of the transportation department.

Q. April—is it April something?

A. April Cowan.

Q. April Cowan. All right.

Now, then what happened, Mr. Roberson?

A. Then Mr. Kineston handed whatever he had in his hands to a man named Bill—Bill Whitman, and asked him to place it in the Cadillac, that Mr. Kineston had to go to the bathroom. And then Mr. Whitman replied, "Yes, do you want me to fill it up with gas?" And Mr. Kineston says, "No, I'm afraid I will be seen on my way to Burbank. I will pick up gas."

Q. Then what happened?

A. That was the last—oh, yes. Mr. Whitman placed those—whatever it was—in the backseat of the Cadillac on the left side.

Q. Did you see the Cadillac leave?

A. No.

Q. Now, Mr. Roberson, I want to turn your attention to—well, the period after Judge Foster's hearing.

Were you in court at Judge Foster's hearing?

A. Was that Friday?

Q. Friday.

A. Yes, I was.

Q. Now, after that hearing was over, and later on, did you see Mr. Kineston again?

A. You mean on the campus?

Q. Yes, on the campus.

A. Yes, I did. Saturday night I saw him.

Q. All right. Where was he?

A. He was entering what is called the data processing building.

Q. All right. About what time was that Saturday night?

A. The best I can remember, 9 o'clock, in that area.

Q. How did you happen—what were you doing there?

A. I was driving around with another fellow that is in court.

Q. What is his name?

A. Mr. Morgan.

Q. All right. And you were driving around the campus area?

A. Yes.

Q. You are familiar—you know the data processing building and where it is?

A. I know where it is located. I don't know inside.

Q. Now, you say you saw Mr. Kineston near the data processing building?

A. Yes.

Q. Would you tell us what happened.

A. First, Mr. Morgan and I saw four people—no, five people, including what looked like a guard, standing by a car, and they had a flashlight over a hood of this car, and at that time I didn't know who they were. And then we went around the block and came back again, and by that time, four of these men were up at the building itself, the data processing center building off of Pasadena Avenue.

Q. By the way, this guard—there have been references to guards.

Have you observed—strike that.

The college does maintain a security force, does it not?

A. Yes.

Q. And they wear uniforms regularly?

A. Yes, they do.

Q. And they have college security guards?

A. Yes.

Q. All right. Now, in addition to that, since Thursday there have been some security guards employed by Judge Weisman; are you aware of that?

A. I didn't know who employed them. I have seen guards there.

Q. Well, in other words, you have seen uniformed security people that are not college people?

A. Right.

Q. Now, coming back—having that distinction in mind. Mr. Roberson, coming back to Saturday night at 9 o'clock, your first observation.

Was the guard that you saw a college security guard or a different security guard?

A. This guard I saw was dressed as college security guards do, and he also—or someone did—I don't know who—had a college security car parked in the street in front of this building with the lights on.

Q. Now, coming back to your second time around the block.

You say there were four people at the door of the building?

A. Right.

Q. Would you go on and tell us what you saw there?

A. Mr. Kineston was one of the men, and Mr. Bill Whitman was one of the others; another man was a bearded man I did not recognize. The other man was the guard.

Q. What were they doing?

A. They were—we stopped the truck and watched, and they were entering the building.

Q. Did you see them go in?

A. Yes.

Q. Did you—what did you do then?

A. We told the Pasadena police, found a car parked in front of the hall of administration, and reported it to them.

Q. Did you see Mr. Kineston anymore that night?

A. No, I did not.

Q. Now, Mr. Roberson, did you observe any other instances, besides the two you have told us about, of people entering places or handling records or entering places where records were, since Wednesday?

A. No, I have not

PAGES, 262-266:

PAUL TULLENERS,

called as a witness by the relators, was sworn and testified as follows:

THE CLERK: Be seated and state and spell your name for the record, please.

THE WITNESS: Paul Tulleners, T-u-l-l-e-n-e-r-s, P-a-u-l.

DIRECT EXAMINATION

BY MR. CHODOS:

Q. Mr. Tulleners, what is your occupation?

A. I'm a peace officer for fourteen years, the last five and a half for the State Attorney General's office as a special agent.

Q. Officer Tulleners, you have handed me a box of material here.

Can you tell me what this is?

A. Appears to be shredded paper to me.

Q. Where did you get it?

A. Out of that waste basket sitting on the counsel table to your left, an electric waste basket combination shredder.

Q. Who gave you the electric waste basket?

A. Given to me by a State policeman on Monday, the 8th of January.

Q. You took the shreds out of this waste basket?

A. Yes, sir, I did.

Q. Did you make any attempt to piece together the shreds that you located in the waste basket?

A. I did.

Q. I take it you weren't able to piece all the shreds together?

A. I made no attempt on the rest of the material that is in that one box.

I believe it's possible, but I think it would consume a considerable amount of time.

Q. I'm going to show you, as soon as counsel is through looking at them, some collections of shredded paper.

THE COURT: Do you anticipate you will need Judge Weisman?

MR. BROWNE: I don't plan on calling him, Your Honor.

THE COURT: Today?

MR. CHODOS: Ultimately I think we will need him, but whether it's today or not, I don't know.

THE COURT: All right. Let's proceed.

MR. BROWNE: I'll stipulate this can come into evidence.

Will that save you some time?

MR. CHODOS: No, Your Honor. The Attorney General may want to keep the originals.

MR. BROWNE: We will stipulate copies may be introduced in evidence.

THE COURT: All right.

MR. CHODOS: I'll put copies in evidence in just a moment. Mr. Tulleners, I take it this folder of documents was made up by you; is that correct?

A. That's correct.

Q. In essence you have taken the shreds and attached them with Scotch Tape to sheets of paper?

A. After piecing them together, I taped them into the shape shown here.

Q. You laid these each little items on a Xerox machine to take a picture of what you put together?

A. That's correct.

Q. We have here, Mr. Tulleners, about a dozen of these documents.

Can you tell the court about how long it took you to do this?

A. That represents about seven or eight hours' work on Tuesday of this week.

Q. You also dusted the shredder for prints, did you?

A. On Monday evening, yes, sir, I did.

Q. You are now in the process of trying to identify them?

A. Yes.

Q. About how long do you figure it will take to do that?

A. If it's possible, a couple of weeks.

Q. Now, Officer, did you go to the data processing building on Saturday night?

A. Yes, sir, I did.

Q. And did you have occasion to take a look at the roof of the data processing building?

A. Yes, I did.

Q. What did you observe there?

A. Well, I entered the roof from within the data processing center, specifically an area identified on the doors as Spanish department or Spanish language department.

And within that area there was a kind of a maintenance area for equipment, like air conditioning, things like that.

Then I saw a ladder bolted to one wall, a steel ladder.

I climbed that ladder and found there was a hatch to the roof, and the hatch was not secured.

I then went up and looked through that and saw the higher roofline of the shipping department to the east. And as I determined that there was a possibility to gain access to the

data processing through that hatch, I pulled the hatch down and padlocked it shut from inside.

Q. About what time was this, Officer?

A. I would be guessing. Sometime between 9:30 in the evening and 11:00 p.m. on the 6th, Saturday, the 6th of January.

APPENDIX L.

Excerpt From Reporter's Transcript of January 10-12, 1979 Hearing in Los Angeles Superior Court Pages 366-367.

MR. CHODOS: I would like to talk about that.

I want to show Your Honor and remind Your Honor of some of the things that have happened just before you in the last couple of days. And if you will be patient with me for a few minutes, I'll explain the relevance to your inquiry.

I won't dwell on Mrs. Kineston's testimony, which was throughly impeached. I won't dwell on the fact she told you in a declaration that there had never been any shredding, and when she got on the stand and knew we had her nailed, she did a 180 degree turn, like an Olympic swimmer, without missing a beat.

I won't dwell on Mr. Kineston, who was thoroughly impeached. I want to talk about something more significant.

You now have before you, Your Honor, not one, not two, but you have three different versions of the by-laws of this church. It's the most extraordinary thing I have encountered in all my years of litigation.

On Friday night, Your Honor, Mr. Browne introduced a version of the constitution and by-laws which is a Xeroxed copy, and that is exhibit C.

In that document, your Honor, if you will examine it you will find that in article 3, section 3, before Xeroxing someone has typed up a new clause about this—

THE COURT: I have looked them over.

MR. CHODOS: Let me pursue it a little bit because, Your Honor, we now have this morning the declaration of Ralph Helge telling Your Honor about the true condition

of the by-laws. And lo and behold, since Friday night, we have a new clause which just by coincidence is article 12 and relates to indemnification of officers and directors.

And the reason that is significant is Mr. Browne told you here the other day that before Mr. Rader's contract was introduced into evidence that he was entitled to take his fees out of the church because Mr. Radar had a contract that entitled him to indemnification. But when the contract comes in, it turns out the indemnification clause doesn't cover this kind of lawsuit.

Between Friday and today we have a new indemnification article all of a sudden pasted in that now purports to provide indemnification for this lawsuit, too, and it's as though the president were to sneak into the Library of Congress—

THE COURT: Excuse me. You are really addressing yourself to the question of whether a receiver should be appointed, why a receiver should be appointed.

I have asked you to respond to another issue, and that is the issue solely as to whether or not there is any need immediately for the receiver to be given possession of all the property rather than the right and power to monitor and supervise with the condition of the right to later apply for possession.

FILED
MAY 14 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,

Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(California, Real Party in Interest),

Respondent.

REPLY BRIEF OF PETITIONERS

LAURENCE H. TRIBE
Griswold Hall 307
Harvard Law School
Cambridge, Massachusetts 02138
(617) 495-4621

Counsel for Petitioners

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REPLY BRIEF OF PETITIONERS

Introduction

Pursuant to Rule 24(4) of the Rules of this Court, petitioners Worldwide Church of God, Inc., *et al.*, file this brief in reply to respondent's Brief in Opposition to Petition for Writ of Certiorari, filed with this Court on May 5, 1980.[1]

ARGUMENT

I.

Even on the Attorney General's Misstatement of the Record,[2] the Issues Presented by the Undisputed Facts of This Case Clearly Warrant Review on Certiorari.

For all of its allegations, the Brief in Opposition leaves so much uncontested that the case for certiorari now seems even more indisputably compelling:

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[1] Petitioners will be referred to herein collectively as "the Church." *See* Petition at 1 n.1 (identifying petitioners individually). Respondent will be referred to herein as "the Attorney General" and "the State," alternatively.

[2] *See* Part II *infra*.

1. It is not disputed that the questions presented for review are ripe for adjudication on the merits. Thus the Attorney General does not deny either (a) that the six challenged decisions of the Court of Appeal are final rejections of petitioners' federal constitutional claims by the highest court of the State in which a decision going to the merits of the challenged Superior Court orders could be had[3]; or (b) that a denial of relief by this Court would

[3] The Attorney General argues that "abstention" by this Court is "mandatory" in this case, Opposition at 17, because (a) the Church may yet receive an "adequate opportunity to vindicate [its] constitutional concerns in the state courts," (b) the Superior Court orders sustained below "are merely pretrial orders designed to facilitate the trial," and (c) it must be presumed that "the state courts [can] sort out the myriad legal and factual issues presented by the proceedings." *Id.* at 11. Nothing is said to explain how such "vindication" or "sorting out" might occur were this Court in fact to "abstain." The reason, of course, is that abstention doctrines are wholly inapplicable here—not only because this case arises on direct rather than collateral review, *cf. Worldwide Church of God, Inc., et al.* v. *State of California,* CV 79-0183 (C.D. Cal. 1979) (dismissing Church's §1983 action for equitable and other relief from Superior Court order confirming imposition of receivership), *appeal pending,* CA 79-3672 (9th Cir.), but also because the State's courts have, in fact, already adjudicated—and finally rejected—the Church's federal (as well as state) constitutional challenges to the Superior Court orders here at issue, *see* Petition at 2 n.3, 4 n.6, 17 n.26, 47 n.75, as the Attorney General has indeed acknowledged, *see id.* at 10 & n.19, and as the Brief in Opposition does not deny. And the mere fact that the judgments at issue sustain what may be styled "pretrial orders" cannot immunize those judgments from review by this Court, for those orders award the Attorney General the basic relief he claims as the State's due. *See* Petition at 7-8. Thus the Attorney General's claim that the Church seeks review of the judgments below at an unsuitably "early stage in the proceedings," Opposition at 17, must be rejected. The Church seeks review *not* of "the very filing and prosecution," in the abstract, of the underlying proceedings, *id.* at 11, but of final judgments sustaining particular discovery orders of impermissible scope and forbidden purpose, issued without sufficient basis in fact, that would, for most practical purposes, *conclude* the proceedings. *Contrast Synanon Foundation, Inc.* v. *California,* 100 S.Ct. 497 (1979) (Rehnquist, J., in chambers) (denying stay of action by State to redress alleged diversion of assets of group claiming that no such action by State could ever be justified under First Amendment).

leave the Church helpless either to avoid the threatened injury to its religious privacy and that of its members, or to obtain an adjudication of any of the questions set forth in the Petition—whatever might occur in any pending or future state court proceeding.[4]

2. It is not disputed that the discovery orders finally sustained below command the virtually open-ended public disclosure, by document production and oral interrogation, of decades of Church minutes, letters, diaries, pastoral communications, contribution lists, and essentially all other internal Church documents, however confidential—including not only all records and papers that could conceivably bear in any way on the Church's collections or disbursements of funds, its allocations of resources, or its contractual

[4] *See* Petition at 7. As the Church has pointed out, the discovery orders sustained below are directed not only at petitioners themselves, but also at third parties "who 'could not be expected to resist . . . by placing [themselves] in contempt.' *Eastland* v. *United States Servicemen's Committee,* 421 U.S. 491, 514 (1975) (Marshall, J., joined by Brennan and Stewart, JJ., concurring in judgment); *id.* at 501 n.14 (majority opinion)." Petition at 48 (footnote omitted). Because one "cannot always 'unring the bell' once the information has been released," *Maness* v. *Myers,* 419 U.S. 449, 460 (1975), and because the Brief in Opposition makes no attempt to deny that "compliance by [a] third person [could thus] frustrate any judicial inquiry," *Eastland, supra,* 421 U.S. at 514, it follows that the Church's federal constitutional right is to have the discovery orders at issue set aside now, and not merely to contest their direct enforcement after the fact. *See* Petition at 49 & n.78.

Awaiting this Court's disposition of the Church's petition, the Superior Court on April 2, 1980, continued until May 29, 1980, further proceedings to enforce the discovery orders at issue, but refused to stay the ancillary enforcement decree sustained in 2d Civ. No. 57294. Of course, the issues presented by the judgments below have not been mooted by the turnover to the State (commencing after this Court on May 2, 1980, denied a stay) of numerous documents seized from the Church during the court-imposed receivership in early 1979 and entrusted to the accounting firm of Peat, Marwick, Mitchell & Co., *see* Petition at 5 n.10, 7 n.14, and the Attorney General does not claim the contrary.

and employment relationships, but also numerous personal diaries, letters between ministers, theological memoranda, and other items of a purely ecclesiastical nature, such as unpublished page-proofs of "The Doctrine of the Worldwide Church of God," *see* Petition at 21 n.32, and internal communications describing or assigning tasks for the Church's Systematic Theology Project. *See id.*[5] Nor is it disputed that these sweeping orders were issued (a) without a judicial determination that the State's suspicions of financial misconduct by Church officers had any basis in fact,[6] and (b) without a judicial determination that the State's legitimate aims could be achieved by no less intrusive means than those sustained below. *Cf. United States* v. *Holmes*, 614 F.2d 985, 987-88 (5th Cir. 1980) (*per curiam*) (forbidding enforcement against bishop and director of Miletus Church of an IRS summons comparable in scope to the

[5] *See* Petition at 18-21, 26-31. Although the Attorney General incorrectly asserts that the Superior Court "carefully tailored the receivership to accomplish the narrow purposes of securing a financial audit," Opposition at 8; *see* Petition at 12-16 & n.23, the Attorney General does not even dispute the unlimited sweep of the discovery orders that were sustained below and that are the subject of this Petition.

[6] *See* Petition at 13 n.23, 29-31. Although the Attorney General himself undoubtedly believes that his suspicions were based on fact, the Superior Court candidly stated that it had formed "no belief that someone has done something wrong here," App. 279b, and pointed out that it had simply been "place[d] . . . on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the Church." *Id.* at 185b. Moreover, no showing of "specific necessity" for an accounting *by individual petitioners* (assuming, of course, that any such showing can be adduced from the State's hearsay-based complaint or from the State's "evidence"), Opposition at 32, could possibly provide the factual basis for the trial court's orders compelling virtually open-ended discovery *from the Church itself*. In any case, only recently has the Attorney General repeated his basic claim, *see, e.g.*, App. 179b, that it is petitioners' simple "obligation to account"—not any factual showing of cause—"which forms the nexus of the [State's] action." Opposition to Motion for Summary Judgment as to Defendant Ralph K. Helge at 6, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (filed April 17, 1980).

discovery orders sustained below, holding that Congress has forbidden any such "far-reaching" IRS examination of churches).[7]

3. It is not disputed that the discovery orders sustained below were sought and issued expressly on the theory that churches operating in California have no private rights in their possessions and papers, and that all church property in California is beneficially owned by the general public; indeed, the Brief in Opposition emphatically reaffirms to this Court the State's commitment to that theory. *See* Opposition at 18-25, 40-41.[8] Nor is it disputed that the Attorney General claims the power to secure such discovery orders regardless of whether the subject church is incorporated in California,[9] and to impose upon a subject church his interpretation of its by-laws.[10] Moreover, it is not dis-

[7] *See* Petition at 30-31. Certainly the Attorney General cannot plausibly argue that he must be allowed to proceed by civil suit against the Church and its officers because, other than the accused, only he has "clear" authority to do so. Opposition at 23. The State's intrusions upon religious liberty and privacy obviously are not rendered constitutional simply because the State may have eliminated the less intrusive means ordinarily available to redress financial misconduct by a church's leaders. In any event, the Attorney General's argument that members *as such* are unable to sue frankly concedes that members and others *as contributors*—who might have a contractual or a property interest in the use of their donations—stand on a different footing. *See* Opposition at 23 n.10. And even if only the State could sue, it would hardly follow that the State is free to compel discovery without limit.

[8] *See* Petition at 22-25, 32-36.

[9] *See* Petition at 13 n.22, 33 & n.56. Thus the Attorney General justifies his action against the Church both as an exercise of his authority to enforce state corporation laws, Opposition at 33, and as an exercise of his equitable power to supervise charities whether or not incorporated under state law. *Id.* at 21. That the Church happens to be incorporated in California is thus ultimately irrelevant to the Attorney General's assertion of power.

[10] In claiming that "[a] principal purpose of the instant suit is to enforce the provisions of the church's own Articles of Incor-

puted that the Church discloses its financial affairs in public reports and is, indeed, itself accused of no wrongdoing; that the Church does not solicit contributions from members of the general public[11]; and that its 70,000 members have never been alleged to disapprove the customary manner in which the by-laws of the Church have been construed and the Church accordingly governed and administered.

4. It is not disputed that the discovery orders sustained below were issued to permit the Attorney General to con-

poration against the officers who have violated them," Opposition at 36, the Attorney General offers as the only two examples of such "violations" (1) the supposed fraudulent misappropriation of Church assets, attributed to petitioner Rader, contrary to Article II (D); and (2) the supposed "rule by individual fiat," attributed to petitioners Rader and Armstrong, contrary to Article IV. Opposition at 36. Article II (D) merely serves as a rhetorical makeweight for the Attorney General, however, for that provision simply acknowledges that the Church is subject to a court's equitable power to redress fraudulent misappropriation of a church's assets—within the limits imposed by the Constitution. At issue here, of course, is not the *power* of a court, subject to those constitutional limits, to redress such misconduct, but rather the Superior Court's *exercise* of that power in issuing the discovery orders sustained below under the circumstances of this case, where the allegations of wrongdoing ultimately express only the State's purpose impermissibly to supervise church spending choices and internal church dealings and relationships. *See* Part II *infra;* Petition at 36-38, 41. As for the claim that the Church is not governed in compliance with Article IV because Church directors frequently defer to petitioners Armstrong and Rader, it is elementary that the State cannot forbid a church's board of directors to govern the church in any such manner where issues deemed by the church to be ecclesiastical—and thus subject, in the church's view, to hierarchical administration—are involved.

[11] Although the Attorney General hints otherwise to this Court, *see* Opposition at 20-21 & n.9, tithes and other voluntary contributions by Church members account for more than 80 percent of the Church's income, and unsolicited donations from an active support group of "non-member contributors," *see* Petition for Writ of Certiorari at 4 (No. 78-1720), known as "co-workers," account for nearly all the rest. *See id.*, Appendix at 3-4 (declaration of Willis J. Bicket, Assistant Treasurer of Church and of College). *See also* Petition at 23 & n.35.

tinue, and then to complete, the wholesale search and seizure of Church premises, property, and papers initiated by the Superior Court's *ex parte* receivership order of January 2, 1979. *See* Petition at 4-5 & n.10, 13 n.23, 29-30, 41-43.[12] Nor is it disputed that, like the receivership order initiating that search and seizure, the discovery orders here at issue (a) rest on no judicial finding of probable cause, and (b) present petitioners with completely general demands for information, coupled with demands for specific information of no conceivable relevance to the State's proffered goal of seeking an accounting. *See* Petition at 18-21, 28-30 & nn.52-53. Thus it cannot be—and it is not—disputed that the discovery orders sustained below utterly fail to meet basic Fourth Amendment standards, much less the far stricter standards that apply whenever the Attorney General's "investigative process tends to impinge upon such highly sensitive areas as [First Amendment] freedom[s]." *Sweezy* v. *New Hampshire,* 354 U.S. 234, 245 (1957) (Warren, C.J., announcing judgment).[13]

5. It is not disputed that the stay of defensive discovery sustained in 2d Civ. No. 57294 was entered and remains in force *only* because the Church exercised and is pursuing its unquestioned right to secure state and federal appellate

[12] It is thus beside the point that the exclusionary rule has not been applied in civil cases. *See* Opposition at 39 n.17. At stake here is not simply the exclusion of evidence already seized by the State, but the termination of an indiscriminate search and seizure that is not yet complete.

[13] *See* Petition at 28 n.52, 41-43 & n.71. In this context, it seems particularly ironic that the Attorney General should distinguish the orders upheld below from executive inquiries on the ground that the state judiciary here decides "what documents and testimony the executive will be permitted to elicit." Opposition at 32. For the undisputed fact is that the state judiciary here, deferring to the executive, has chosen to make no such independent decision. *See* Petition at 23-24, 31. And, in any event, as the Attorney General himself observes, "the judiciary is as much an arm of government as the executive." Opposition at 25.

review of the discovery orders challenged in this Petition, and that this stay not only serves as an enforcement device, but also works a continuing injury to the Church's reputation—as the State airs in public its accusations of financial and other misconduct by Church leaders while the Church is disabled from confronting and refuting the sources of the State's damaging allegations.[14]

6. Finally, it is not disputed that the coercive and comprehensive examination to which the judgments below subject the Church—including the means by which the State, through a conditional stay of defensive discovery, seeks to deter appellate challenges to its unbounded investigation of the Church's files and doctrines—is only one among a number of typically unchallenged instances of such "supervision of . . . religious corporations" which the State has undertaken.[15]

Even accepting the Attorney General's version of the record, therefore, this case calls upon the Court to decide

[14] *See* Petition at 7 & n.13, 44-46. Opposition at 10. The Attorney General's own description of the discovery obtained by the Church before the coercive stay was imposed, *see* Opposition at 10; R. App. 93-95, belies his bald claim that the Church "[has] obtained extensive discovery from the State." Opposition at 10. And although the State has, indeed, produced a total of nearly *twenty* separate Church documents—mostly non-financial in nature—pursuant to petitioners' discovery requests, the fact is that the Attorney General has refused to respond to—much less answer—interrogatories and requests for admissions seeking simply to ascertain the facts upon which he based his complaint, and the Superior Court has refused to compel him to do so. *See* Superior Court Minute Order of May 29, 1979.

[15] App. 327b. *See* Petition at 8 & n.15. The State's observation that "private plaintiffs may lack the resources . . . to litigate successfully against a corporate management with other people's money at its disposal," Opposition at 24 (footnote omitted), only highlights the far more pertinent disparity between the strength of most churches and the might of the State, armed with the power of taxation. That disparity surely helps to account for the ease and repeated success with which the State has evidently subdued religious organizations less able to resist than the Worldwide Church of God. *See* Petition at 8, 50.

whether a literally boundless investigation into decades of an undeniably legitimate church's inner life, justified on the remarkable proposition that church assets and documents belong to the general public, should be permitted to stand—where all constitutional objections to that investigation have been finally rejected below, and where the Attorney General pressing the investigation boasts that other churches subjected to similar oversight have acquiesced, and continue to acquiesce, short of trial and appeal.

II.

The Attorney General's Distortions of the Record Underscore the Importance of Plenary Review by This Court.

With what may be the best of intentions, the Attorney General has evidently translated the string of judicial victories the State has obtained below into what must be described as a license to reshape the facts to fit the Attorney General's own image of them.

For example, the "church records" that petitioner Rader's secretary "ultimately admitted" to have shredded, Opposition at 8, consisted entirely of duplicate Church documents and such "junk" mail as unsolicited pictures from *Hustler* magazine. R.App. 103. *See also* Opposition at 7, citing R.App. 61 (hearsay declaration by former relator Alvin E. Timmons that he was "advised" by unidentified third parties of document destruction), cited in Opposition at 4-5. And the Superior Court itself specifically ruled that the State has failed to substantiate its initial "suggestion and vague evidence" of culpable document destruction. App. 215b.[16]

[16] To support his claim that the State has offered "substantial evidence" of suspect removal of Church documents, the Attorney

The Attorney General also insists, for example, that the Superior Court's receivership order of January 2, 1979, was supported by evidence of "liquidat[ion]" of Church property, Opposition at 4, citing R.App. 61-62, 68, even though the Superior Court itself declared long before entering the discovery orders here at issue that the one worrisome below-value sale of Church property alleged by the State was a fiction, App. 174b, resting on "sheer speculation, conclusion, and hearsay." *Id.* at 183b.[17]

As for the Attorney General's peevish references to petitioner Rader's "lucrative" employment contract, Opposition at 5, and to the "luxury" expenditures by Church officers and emissaries, *id.* at 3; *see id.* at 6-7[18]; as for the

General calls this Court's attention, Opposition at 7, to a Church-employed engine mechanic's testimony that he saw Rader's chauffeur emerge from a car "with something in his hands. What, I don't know." R.App. 112.

[17] The Attorney General absurdly suggests, in addition, Opposition at 4, that a letter by petitioners Rader and Helge to Church members reporting that the Church's own auditors had uncovered misuse of Church funds by a *former* Church officer, and that the Church *itself* "[had] been able to either recover God's tithe money or obtain adequate assurance of its repayment," R.App. 65, constituted evidence in support of the January 2, 1979, receivership order. If anything, needless to say, such a letter was evidence that no receivership—much less the sweeping discovery orders directed at petitioners Rader and Helge, or at the Church—was warranted.

[18] The Attorney General speaks reprovingly to this Court of the "extravagant," "bizarre," "exorbitant," "astonishing," and "unbelievable" travel, lodging, public relations, and other expenses of key Church officers, *id.* at 3, 6-7, as though the State were permitted to determine, by its own notions of frugality and extravagance, what are proper and what are improper levels of spending by a church's officers in the performance of their duties.

Specifically, the Attorney General decries the amounts spent on international travel, lodging, and public relations by Osamu Gotoh, the Church's first diplomatic representative to the Far East, by petitioner Rader, and by petitioner Cornwall. *Id.* at 6-7. Even if the State were permitted to determine whether those who serve as a church's emissaries in worldwide missions should travel

Attorney General's claims of "self-dealing" by petitioner Rader, *id.* at 2-3[19]; and as for the Attorney General's allega-

economy fare or first class, the fact is that the annual travel expenses set out in the Church financial reports appended to the State's receivership application, *see* Declaration of Benjamin Chapman in Support of Application for Temporary Receiver, Ex. A, *People* v. *Worldwide Church of God* (filed January 2, 1979), represent only *four percent* of the Church's $70 million annual revenue. *Id.* at 4.

The Attorney General also insinuates that such expenses as Rader's expenditures on furnishings, mortgage payments, and a lone golf club for his official residence in Tucson, Opposition at 7, are *prima facie* evidence of "syphoning [*sic*] off and diverting to [private] use and benefit substantial sums which are assets [of the Church]." *Id.* at 2. But surely a senior church officer may perform his duties as a church representative in a home bought and furnished by the church. The Attorney General would not dare to question such expenditures if made by senior officials of churches older and larger than the Worldwide Church of God. That he has managed to exploit such expenditures by senior officials of the Church in this case as justification for the discovery orders sustained below illustrates the frightening ease with which the State may victimize less securely established religious groups.

Publicly disclosed in the Church's own financial reports, *see* Declaration of Benjamin Chapman, Ex. A & B, *supra,* these expenditures may well meet with the Attorney General's pinchpenny disapproval, but they can hardly be considered "fraudulent." And the mere fact that the Attorney General considers those expenditures spendthrift cannot conceivably justify the state court orders directing the Church itself to lay bare its internal communications for public inspection by the State. In truth permitting the Attorney General not to combat "fraud" but rather to supervise Church spending choices to satisfy himself that all Church funds are used "strictly for God's Work," Second Amended Complaint ¶12(b)—as the Attorney General interprets it—the orders of the Superior Court sustained below eviscerate precious First and Fourteenth Amendment rights of religious privacy and liberty. *Serbian Eastern Orthodox Diocese* v. *Milivojevich,* 426 U.S. 696, 711-17 (1976); *Surinach* v. *Pesquera de Busquets,* 604 F.2d 73, 77-78 (1st Cir. 1979). Such state-court invasions of federal constitutional rights cannot be saved even when euphemistically miscast as a lawsuit seeking "the prevention and correction of fraudulent misappropriation of assets dedicated to religious and charitable purposes." Opposition at 27.

[19] Rader became an officer, a director, and a member of the Church in 1975. Declaration of Stanley R. Rader in Support of

tions that the Church is a dictatorship operating behind a "dummy" board of directors, *id.* at 5, and that deference by Church directors to petitioners Rader and Armstrong in certain matters shows that the Church is not being governed in accord with its by-laws, *id.* at 5, 6[20]—all of

Application for Order Removing Temporary Receivership ¶5 (filed January 4, 1979). The plane-leasing transaction to which the Attorney General refers, Opposition at 3, occurred in 1967; the advertising agency, *id.* at 2, was formed in 1969; and the Beverly Hills home, *id.*, was purchased in 1971. Thus any notion that his transactions with the Church as its attorney or accountant constitute "self-dealing transactions" by the fiduciary of a charitable trust must be dismissed. Rader's "lucrative employment contract" with the Church, Opposition at 5, signed in 1976, was dictated not by Rader but by the leader of the Church, petitioner Armstrong, Transcript of January 10-12, 1979, at 145-46, who also had enlisted Rader's aid in leasing an airplane for the Church when all other possibilities had been exhausted, Declaration of Stanley R. Rader in Support of Application for Order Removing Temporary Receiver ¶3, *supra*, and who directed the purchase by Rader of the Beverly Hills home, *id.* ¶8; Transcript of January 10-12, 1979, at 154-56. Rader paid for that home himself—although the Church did make some of the payments, which Rader forthrightly reported as compensation to him. *Id.* Thus the State's assertion that Rader "pocket[ed] the proceeds" from its sale, Opposition at 2, is an innuendo unworthy of the Attorney General. The Tucson home has at all times been an official Church residence, which the Brief in Opposition does not deny. At all events, for the State to invoke notions of self-dealing *or* of extravagance in defense of the discovery orders sustained below in this case is to beg a core constitutional question presented by this case: do the First and Fourteenth Amendments permit state agents to utilize civil discovery to further the purpose of supervising the spending choices and internal relationships of undeniably legitimate churches?

[20] The Attorney General's allegations, of course, rest on the indefensible premise that a church's board of directors may not defer to the church's leaders on matters that the church considers ecclesiastical. Moreover, to whatever extent current church custom diverges from a church's written governing instruments, the Attorney General's attack on such current custom assumes that the church's members have not ratified—or may not ratify—customary modifications of the church's organizational plan. Even if this remarkable assumption were sustainable, demanding open-ended disclosure of internal church communications is hardly calculated to meet the problem at all—and certainly not in the least intrusive available way. The alleged "failure" of Church leaders to comply

these claims simply confirm that the State's untenable purposes in securing discovery through the orders sustained below are (1) impermissibly to dictate spending choices by church officers according to the State's sense of frugality and extravagance, *see* Petition at 36-37; (2) impermissibly to impose legal norms pertaining to fiduciary duties of trustees on a church's internal relationships and arrangements for the sheer sake of imposing such norms, *see id.* at 37-40; and (3) to redesign a church's polity and leadership in blatant derogation of the right to free exercise of religion and the separation of church and state. *See id.* at 40-41.[21]

CONCLUSION

It bears emphasis that the substantiality and significance of the constitutional claims presented here do not depend upon accepting petitioners' and rejecting respondent's version of the record. *See* Part I *supra.* But, having repeatedly treated this Court's denials of review in earlier and less central phases of this litigation as though such denials were endorsements of his factual and legal views,[22] the

with the Church's articles of incorporation and by-laws, *id.* at 5, can neither justify nor explain the discovery orders and ancillary enforcement decree sustained below.

[21] This account of the Attorney General's distortions of the record is not exhaustive but simply illustrative. *See, e.g.*, nn.5, 6, 11, 14 *supra.*

[22] *See, e.g.*, State's Brief in CA 79-3672, *supra* n.3, at 15-16 (filed March 17, 1980) ("[The Church has] sought and [has] been refused two Petitions for Writ of Certiorari by the United States Supreme Court . . . [and] . . . one of [those] Petitions sought review of the very receivership orders which it is here claimed were so constitutionally defective that [the district court] should have enjoined their enforcement. Therefore, with the same facts before [it] as had been presented to [the district court], our nation's highest court did not see fit to interfere with the state court proceedings."). This Court declined review in No. 78-1720 (challenging state court denial of extraordinary relief from receivership,

Attorney General could hardly be expected to accord more circumspect treatment to a denial of certiorari in this most crucial case. Confirmed in his inclination to transform into fraud and self-dealing those religious spending and other protected church practices on which he frowns, and to convert into culpable obstruction a church's decision to defend itself in the courts from the State's inquisition, the Attorney General plainly could not be relied upon, as the respondent court presumed he could, to use "good judgment and discretion," App. 219b, *see* Petition at 31, in pursuing those churches or synagogues of which he or his constituents may happen to disapprove at any given time.[23] The case for plenary review thus could scarcely be more clear.

Respectfully submitted,

LAURENCE H. TRIBE
Griswold Hall 307
Harvard Law School
Cambridge, Massachusetts 02138
(617) 495-4621
Counsel for Petitioners

May 14, 1980.

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which had been stayed pending state court review on direct appeal), *cert. denied,* 100 S.Ct. 172 (1979), and No. 79-205 (challenging order directing petitioner Rader to answer questions at deposition), *cert. denied,* 100 S.Ct. 230 (1979).

[23] It is not surprising, therefore, that organizations representing an unprecedented variety of religious faiths, and an unprecedented multitude of private citizens, have joined with petitioners in urging this Court to grant review. *See* Brief of *Amicus Curiae* National Council of Churches of Christ in the U.S.A., filed March 7, 1980, at 8.

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IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., ET AL.,
PETITIONERS,

vs.

STATE OF CALIFORNIA, ET AL.,
RESPONDENTS.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE OF

CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS

AS AMICUS CURIAE IN SUPPORT OF GRANTING CERTIORARI

OF COUNSEL:
DAVID D. FLEMING
EVA M. SOEKA

ROBERT A. DESTRO
Catholic League for Religious and Civil Rights
1100 W. Wells Street
Milwaukee, Wisconsin 53233
Phone:(414) 289-0170
Attorney for AMICUS CURIAE

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MOTION TO FILE BRIEF AMICUS CURIAE

Pursuant to Rule 42 of the Rules of this Court, the Catholic League for Religious and Civil Rights ("Catholic League") respectfully moves this Court for an order granting it leave to file the attached brief in support of the petition for certiorari.

The Catholic League for Religious and Civil Rights, a non-profit, tax-exempt California corporation with its headquarters in Milwaukee, Wisconsin, is a voluntary membership organization dedicated to the defense of the rights of all persons of religion and the education of the public respecting issues of religious freedom. The Catholic League's membership currently stands at approximately 30,000 nationwide. Its interest and expertise in cases such as the one at bar is derived from the concerns of both its members and the defense of its clients' First Amendment rights.

In the view of the Catholic League, this case presents free exercise and associational questions of the highest magnitude. It is not a party to any of the pend-

ing actions, but if the Public Trust Doctrine disputed here is accepted, it may be called upon to defend the rights of other religious organizations facing investigations more or less sweeping than the one involved here.

For the foregoing reasons, as well as the reasons submitted in the attached brief, the Catholic League respectfully urges that the Court grant its motion for leave to file the attached brief amicus curiae urging the Court to grant the petition for a writ of certiorari.

CONSENT TO FILE THIS BRIEF
OF AMICUS CURIAE WAS REQUESTED
OF THE PARTIES BUT NOT RECEIVED

This moving party requested permission of the parties to this matter to file a brief amicus curiae in connection with the

petition for a write of certiorari. Petitioners gave their consent, but respondent, State of California, declined to do so. This motion is accordingly submitted.

Respectfully submitted,

ROBERT A. DESTRO
Attorney for Amicus Curiae

EVA M. SOEKA
DAVID D. FLEMING

Of Counsel

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BRIEF OF

CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS

AS AMICUS CURIAE IN SUPPORT OF GRANTING CERTIORARI

INTRODUCTION

The Catholic League for Religious and Civil Rights ("Catholic League") has moved this Court for an order permitting it to file a brief, as amicus curiae, in support of defendants' petition for a writ of certiorari to the California Court of Appeal. The brief which follows is, necessarily, short and contains only those arguments which, in the view of your amicus, most strongly support the granting of the requested writ.

The constitutionality of the Public Trust Doctrine is the issue in this case. Your amicus submits that settled free exercise and association principles require both plenary consideration of the case on its merits and eventual repudiation of the overly broad and intrusive theories which prompted the California Attorney General to institute this unfortunate litigation.

STATEMENT OF THE CASE

The State of California, through its Attorney General, asserts that all churches and religious organizations are public charitable trusts, i.e., all church property is public property and a church has no private rights. Under this theory, the State is empowered to oversee and supervise all churches in the management of their assets and, therefore, to audit, examine, and control all church activities. The challenged orders reflect the approval of these principles by the California courts.

Following these principles, the California Attorney General filed the subject action based on information from six disaffected church members. The action sought to compel an accounting from the church by means of a court-ordered audit and examination of church finances. The State also secured an *ex parte* appointment of a receiver who assumed complete control of the church. The State, then embarked upon a massive program compelling the disclosure

of such things as all minutes of church meetings from the preceding twenty-two years, records reflecting the source, amounts and application of contributions to the church, and records indicating the disposition of funds pursuant to church welfare programs.

All appeals to higher courts have to date been unavailing and this petition is the last remaining barrier to a wholesale application of the principles of the California Public Trust Doctrine.

QUESTION PRESENTED

Can California's Public Trust Doctrine and its corollaries be lawfully applied to all churches and religious organizations without violating the First Amendment guarantee of free exercise of religion?

SUMMARY OF ARGUMENT

Your amicus submits that the case should be considered within the framework of traditional free exercise analysis.

In the view of your amicus, California's Public Trust Doctrine ignores affirmative free exercise limitations on doctrinal and administrative entanglement in the affairs of religion.

It is also overbroad because it chills and regulates protected religious exercise and association, exposing the innermost administrative and doctrinal processes of a religious organization to governmental scrutiny. Your amicus submits that the foregoing free exercise analysis is preferable to an establishment analysis in that an establishment analysis assumes the existence of governmental power to interfere with the internal workings of an unquestionably religious organization. That assumption, we submit, is the very issue presented in this case.

I. CALIFORNIA'S PUBLIC TRUST DOCTRINE IGNORES AFFIRMATIVE FREE EXERCISE LIMITATIONS ON DOCTRINAL AND ADMINISTRATIVE ENTANGLEMENT IN THE AFFAIRS OF RELIGION

> The Court is the ultimate custodian of all church funds, just as the Attorney General has always been charged with the power and the duty to investigate allegations of misuse or even suspicions of misuse.
>
> ***
>
> ... [T]he church, as a charitable trust, has no interest to protect here. It has no client. It is the court's funds and the court may remove and replace substitute trustees at its pleasure." [Appendix of Petitioner at 172(b).[1]]

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[1] All references to the Appendix are to that of the Petitioners' Worldwide Church of God, *et al.*, unless otherwise noted.

The foregoing excerpt is the keystone of the argument of the State of California in this case. Essentially, its argument is that the church is the creature of the state, rather than a voluntary association of believers, and that the State may intervene whenever it entertains "suspicions of misuse" of church assets. Your amicus submits that this theory is untenable, and that this Court should grant the requested writ in order to preserve the autonomy of religious organizations to direct their own affairs. *Cf., First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978).*

California's Charitable Public Trust Doctrine, as applied to the affairs of churches, whether established, incorporated or organized in less formal fashion, represents a continuing threat to the free exercise of religion guaranteed by the First Amendment to the Constitution of the United States. It subjects the continuing operations of church bodies to the constant threat of government investigation, supervision, and control when, as here, someone

alleges or suspects "misuse". In the view of your amicus, such a practice poses grave threats to the free exercise of religious beliefs.

The inability of the state to comprehend the nature and depth of religious beliefs, teachings, and practices was recognized by this Court in *United States v. Ballard, 322 U.S. 78 (1944)*, and a determination regarding the allegedly "proper" or "improper" adminstrative use of church assets inexorably leads to scrutiny of the doctrinal bases for given allocations or programs. *Compare, e.g., N.L.R.B. v. Catholic Bishop of Chicago, 440 U.S. 490 (1979); Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976); Lemon v. Kurtzman, 403 U.S. 602 (1971); with, e.g., Committee for Public Education & Religious Liberty v. Regan, 48 U.S.L.W. 4168 (1980); Board of Education v. Allen, 392 U.S. 236 (1968); Everson v. Board of Education, 330 U.S. 1 (1947).* The representatives of the state do not necessarily share the same values and beliefs as church members, and the centrality of shared religious values among

church members makes it virtually impossible for the state to be either an impartial administrator of church affairs, *see, Serbian Eastern Orthodox Diocese* v. *Milivojevich, supra; Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U.S. 440 (1969); Kedroff* v. *St. Nicholas Cathedral, 344 U.S. 94 (1952)*, or for it to attempt to control public manifestations of doctrinal values. *See, e.g., McDaniel* v. *Paty, 435 U.S. 618 (1978); Akron Center for Reproductive Health* v. *City of Akron, 479 F.Supp. 1172 (1979) (rejecting religious "divisiveness" argument regarding regulatory legislation).*

In the case at bar, California has arrogated privately held church property to itself, and now seeks to administer it for the "protection", not of the members of the Worldwide Church of God, but of the "People of the State of California". The desires and opinions of the members of the Church are essentially irrelevant. *(See App. at 198b, 204-205b).* The Superior Court, in clear violation of the teachings of

N.L.R.B., Kedroff, Presbyterian Church, and Milivojevich, supra, asserts its own power to resolve "any dispute [which] arises between the receiver and the ecclesiastical authorities of the church over whether or not a particular matter is, in fact, ecclesiastical in nature", and purports to be authorized to pay for its unconsitutional interference from the funds of the church itself! *(App. at 188b).*

The authorization of fundamental violations of the Free Exercise Clause inherent in the orders of the Superior Court entered in the hope of "saving" the church from its leaders [App. 198b] is analagous to the type of free exercise violation forbidden by this Court in *Wisconsin* v. *Yoder, 406 U.S. 205 (1972).* In *Yoder* it was recognized that "if the State is empowered, as *parens patriae*, to 'save' a child from himself or his ... parents; ... the State will in large measure influence, if not determine, the religious future of the child." *406 U.S. at 231-232.* Your amicus submits that the same rule applies here, for the State of California has undertaken to su-

pervise and entirely restructure the World-wide Church of God in the name of "saving" it.

In the case at bar, independent ecclesiastical thought is subjected to the watchful eye of the receiver and Superior Court. No church can survive the inherently suffocating grasp of the state for long, and it is precisely for this reason that traditional free exercise analysis should be applied in this case. *Compare, State of Ohio v. Whisner, 47 Ohio St. 2d 181, 351 N.E. 2d 750 (1976).*

If California authorities have reason to believe that there has been criminal activity among the leadership of the World-wide Church of God, the criminal process is available to protect the State's interests. It is well-settled that where religious rights are at stake, a state may only seek to satisfy compelling interests through the least burdensome alternative. *McDaniel v. Paty, supra; Sherbert v. Verner, 374 U.S. 398 (1969).* In the case at bar, criminal prosecutions, where appropriate, are clear-

ly less intrusive of the First Amendment rights of both the Church as an institution, and the rights of its members than the sweeping receivership involved here.

Your amicus respectfully submits, therefore, that the writ should be granted and that full consideration be given to the merits prior to enforcement of further orders by the Superior Court.

II. CALIFORNIA'S PUBLIC TRUST DOCTRINE GENERATES AN IMPERMISSIBLE CHILLING EFFECT ON FIRST AMENDMENT RIGHTS.

The continuing threat that §§9505 and 9230 will be applied generates a chilling effect on the free exercise of rights protected by the Constitution -- freedom of religion, assembly, and association. This statute is "... an obvious invitation to discriminatory enforcement against those whose association together is 'annoying' because their ideas, their lifestyle or their physical appearance is resented by the majority of their fellow citizens." *Coates v. Cincinnati, 402 U.S. 611, 616 (1971).* The "pervasive threat" that the State of California will arbitrarily apply the Public Trust Doctrine to the downtown basilica or the neighborhood Bible meeting has a chilling effect on the exercise of First Amendment rights, *Thornhill v. Alabama, 310 U.S. 88, 97 (1940)*, especially where, as here, there are absolutely no standards to guide and confine the discretion of either the Attorney General or the courts.

III. CALIFORNIA'S PUBLIC TRUST DOCTRINE IS CONSTITUTIONALLY OVERBROAD BECAUSE IT REGULATES PROTECTED RELIGIOUS EXERCISE AND ASSOCIATION

The Public Trust Doctrine holds that all of the property of a non-profit corporation is held in trust by the state. As applied in this case, the doctrine is the ultimate interference with the free exercise of religion. The State does not "establish" a religion, but interferes with the ongoing decisions of an organization whose activities are protected by the First Amendment. The members of the religious organization and its hierarchy should make decisions and judgments as to what is in the best interests of the church, whether it be the sale of assets, the funding of religious programs and, even such minutae as the furnishing of the residences of the hierarchy.

Although the state has an interest in protecting its citizens from fraud, the First Amendment mandates that the means chosen to protect that interest be limited to those which are least intrusive into the internal affairs of the church. *Wisconsin*

v. Yoder and Sherbert v. Verner, supra.

In the case at bar, the State has available to it a set of highly specific, articulated standards -- the criminal law -- which would serve its interest in protecting its citizens from charlatanism while accommodating First Amendment freedoms. The State has demonstrated no compelling interest as to why the body of criminal law and procedure which governs every other facet of society would not suffice to investigate its suspicions of wrongdoing among the church's hierarchy. It is incumbent upon the State to show that no alternative forms of regulation and/or investigation would combat such suspected abuses. *Sherbert, supra.*

Sections 9505 and 9230 are constitutionally overbroad in that these statutes regulate religious activities which are protected from regulation by the First Amendment to the Constitution. They grant unfettered discretion to a receiver who makes decisions ranging from the merely operational to the unquestionably doctrinal to the decidedly trivial. There are "no

standards", "no narrowly drawn limitations", "no substantial interest of the community to be served" within the parameters of §§9505 and 9230. *Niemotko v. Maryland, 340 U.S. 268, 272 (1951); see also, Lovell v. Griffin, 303 U.S. 444 (1938). Cf., Shuttlesworth v. City of Birmingham, 394 U.S. 147 (1969).* Rather, we find two statutes which, on their face, make no distinction between decisions made by the receiver which are constitutionally permissible and those which undeniably intrude upon First Amendment rights. The Public Trust Doctrine, as codified in Cal. Corp. Code §§9505 and 9230 and as enforced by the Superior Court below, is constitutionally overbroad on its face. It should not be enforced merely because "the State [has taken] the precaution to have some judge append his signature to an *ex parte* order which recites the words of the invalid statute". *Walker v. Birmingham, 388 U.S. 307, 346 (1967) (Brennan, J. dissenting).*

CONCLUSION

For all the reasons set forth in the foregoing brief, your amicus respectfully submits that the petition for certiorari should be granted and that full consideration on the merits be given the issues presented.

Respectfully submitted,

ROBERT A. DESTRO
Attorney for Catholic League for Religious and Civil Rights

EVA M. SOEKA
DAVID D. FLEMING

Of Counsel

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IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

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vs.

STATE OF CALIFORNIA, ET AL.,
RESPONDENTS.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three

Motion for Leave to File Brief Amici Curiae and Brief of

HOLY SPIRIT ASSOCIATION FOR THE UNIFICATION OF WORLD CHRISTIANITY

ALLIANCE FOR THE PRESERVATION OF RELIGIOUS LIBERTY

As Amici Curiae in Support of Granting Certiorari.

BARRY FISHER,
2049 Century Park East, Suite 3160,
Los Angeles, Calif. 90067,
(213) 557-1077,

FLOYD MORROW,
454 Mission Valley Center West,
San Diego, Calif. 92108,
(714) 297-4994,
Attorneys for Amici Curiae.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

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As Amici Curiae in Support of Granting Certiorari.

The following organizations, pursuant to Rule 42 of this Court, respectfully move for leave to file a brief, amici curiae, in support of granting a writ of certiorari:

1. The Holy Spirit Association for the Unification of World Christianity which is a revelatory Christian church headquartered in New York, New York. It has 10,000 members nationwide and operates centers for study and fellowship in every state.

2. The Alliance for the Preservation of Religious Liberty which is a California non-profit corporation, having its headquarters in San Diego, California. It is a national organization, with some 20 chapters in 16 states, and is devoted to involvement in selected legal actions designed to ensure that the constitutional rights of individuals and religious organizations are upheld and preserved.

Permission to File This Brief, Amici Curiae, Was Requested From the Parties in This Matter but Was Refused.

Leave to file the accompanying amici curiae brief was requested of the parties to this matter. Such permission was received from petitioners, but refused by respondent, State of California.

The Moving Parties, as Disinterested Organizations Active in Religious Affairs and Devoted to the Maintenance of Constitutional and Religious Freedoms, Are Uniquely Qualified to Advise the Court Concerning the Nature and Importance of the Issues Tendered by the Petition.

The experience and situations of the moving parties, one an active and dynamic national church organization, the other a national organization specifically formed for the purpose of enhancing and defending religious freedom, add depth and further dimension to the already impressive group of amici curiae whose brief is referred to in the accompanying proposed brief of these moving parties.

These moving parties are dedicated to the ideals of religious freedom expressed in our federal Constitution, and the issues tendered by the subject case bear

directly upon their very reasons for being. On the other hand, both are completely detached from the litigation itself as well as from the parties and the activities which are the subject of the litigation. Neither of these moving parties has any interest in protecting fraudulent behavior perpetrated under a religious mask. They both believe that all religious institutions should merit the respect and devotion of their adherents and supporters. However, the legal theories advanced by respondent, State of California, and its activities in furtherance of those claims, as manifested in the subject case, present, in the view of these amici curiae, a threat to all churches and religious organizations, a threat which, in their view, they are uniquely qualified to interpret and articulate to this Court.

For these reasons, these moving parties urge that the Court accept their accompanying brief for filing along with the brief of the other amici curiae, in a joint and unified appeal to this Court to grant the petition for writ of certiorari of petitioners, Worldwide Church of God et al.

Respectfully submitted,

BARRY FISHER,
FLOYD MORROW,
Attorneys for Amici Curiae.

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ALLIANCE FOR THE PRESERVATION OF RELIGIOUS LIBERTY

As Amici Curiae in Support of Granting Certiorari.

The Holy Spirit Association for the Unification of World Christianity and the Alliance for the Preservation of Religious Liberty concur fully in the amici curiae brief in support of granting certiorari prepared by the American Civil Liberties Union of Southern California, Americans United for Separation of Church and State Fund, Inc., the Institute for the Study of American Religion, the Berkeley Area Interfaith Council, the Christian Legal Society, the Methodist Federation Fund and the Committee to

Defend the First Amendment Research Institute. Rather than repeat the statements and arguments contained therein, these amici refer to and adopt said brief as their own and urge to the Court, for the reasons and upon the grounds therein stated, that the Court grant the petition and issue a writ of certiorari as prayed in order that the grave issues tendered thereby, which bear directly and menacingly upon the religious freedom of all Americans, may be considered and dealt with by the Court.

Respectfully submitted,

BARRY FISHER,
FLOYD MORROW,
Attorneys for Amici Curiae.

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ASSOCIATION OF EVANGELICAL LUTHERAN CHURCHES
BOARD OF CHURCH AND SOCIETY, THE UNITED METHODIST CHURCH
WILLIAM P. THOMPSON, STATED CLERK OF THE GENERAL ASSEMBLY OF THE UNITED PRESBYTERIAN CHURCH IN THE U.S.A.
NATIONAL ASSOCIATION OF EVANGELICALS
NORTHERN CALIFORNIA ECUMENICAL COUNCIL

As Amici Curiae in Support of Granting Certiorari

LEO PFEFFER,
15 East 84th Street,
New York City, New York 10028,
(212) 879-4500,
Attorney for Amici Curiae.

Of Counsel:
JOHN W. BAKER,
JOHN W. WHITEHEAD,
JOHN E. STUMBO.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

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LUTHERAN CHURCH IN AMERICA

ASSOCIATION OF EVANGELICAL LUTHERAN CHURCHES

BOARD OF CHURCH AND SOCIETY, THE UNITED METHODIST CHURCH

WILLIAM P. THOMPSON, STATED CLERK OF THE GENERAL ASSEMBLY OF THE UNITED PRESBYTERIAN CHURCH IN THE U.S.A.

NATIONAL ASSOCIATION OF EVANGELICALS

NORTHERN CALIFORNIA ECUMENICAL COUNCIL

As Amici Curiae in Support of Granting Certiorari

The following organizations respectfully move the Court, pursuant to Rule 42 of its Rules, for leave to file the accompanying brief, amici curiae, in support of the petition of Worldwide Church of God et al. for a writ of certiorari in the above captioned matter:

1. The National Council of Churches of Christ in the U.S.A. is a cooperative agency of 32 national Christian religious bodies having an aggregate membership of over forty million. Through its Division of Church and Society, the Council has long been involved in maintaining the constitutional separation of church and state. The Lutheran Church in America, the United Methodist Church and the United Presbyterian Church in the U.S.A. are among the Council's members.

2. The Synagogue Council of America consists of organizations representing the three divisions of the Jewish religion: Orthodox, Conservative and Reformed, at the rabbinic and congregational level. These organizations have a combined constituency of approximately five million Americans. The Council seeks, among other objectives, to preserve the benefits of religious liberty.

3. The Baptist Joint Committee on Public Affairs represents the interests of eight cooperating Baptist conventions in the United States having a combined membership of some 27 million, and which have, throughout their history, evidenced a vital concern for the protection of religious liberty and the maintenance of a separation of church and state.

4. The Lutheran Church in America, headquartered in New York City, is composed of some 6,100 congregations in the U.S. and Canada.

5. The Association of Evangelical Lutheran Churches is headquartered in St. Louis, Missouri. It is composed of some 260 congregations in the United States. Both it and the Lutheran Church in America

have defined their ministries to include concerns for social justice and religious freedom.

6. The Board of Church and Society is one of four official national program agencies of the United Methodist Church. Its particular mandate is the general area of social concern, including specific responsibility for church-state relationships. The United Methodist Church is a major Christian denomination having some 40,000 congregations in the United States.

7. William P. Thompson, stated Clerk of the General Assembly of the United Presbyterian Church in the U.S.A., is the executive officer of the governing body of the United Presbyterian Church, organized in 1706 and consisting of some 8,600 churches throughout the United States. As an organization, it has, throughout its history, demonstrated an active concern for the preservation of religious liberty and the separation of church and state.

8. The National Association of Evangelicals is an association of evangelical organizations, colleges and universities, as well as some 36,000 churches. Together with its affiliated agencies, the Association serves the religious needs of approximately 10 million persons. The Association recognizes the danger imposed by the State of California's legal position to the freedom of these individuals as well as all Americans and is vitally concerned with countering that threat.

9. The Northern California Ecumenical Council is a regional body representing the local council of churches and ecumenical agencies together with representatives of the fourteen participating judicatories which make up its Council Board. It is the most broadly representative body of the Protestant community in Northern California and is actively concerned with the defense of religious freedom.

Consent to the Filing of the Attached Brief Amici Curiae Has Been Requested of the Parties but Refused by Respondent State of California.

The consent of the parties to the filing of the attached brief has been sought by the moving parties. However, while petitioners gave their consent, the respondent Attorney General of the State of California refused such consent. Amici, accordingly, proceed by this motion.

Amici Organizations Represent a Major Portion of This Country's Christian and Jewish Religious Community, and as Such, Are Particularly Qualified to Represent to the Court the Detached and Authoritative Viewpoint of This Large and Diverse Constituency.

The above amici curiae consist of established church bodies and umbrella organizations representing a constituency of over 80 million Americans and members of this country's religious community. As such, they are uniquely qualified to represent to this Court the views of this large and diverse constituency on the vital issues presented by the petition herein.

These amici curiae are not parties to the subject action, nor have they been involved in any of the activity alleged to form the basis for the action instituted by California's Attorney General. Neither do they believe that the religious protections of the first amendment may be used to protect wrongdoing. They are concerned, however, that these protections not be breached in pursuit of wrongdoers when other, less perilous alternatives are available.

The issues tendered by the pefition in this case touch upon the core of religious liberty and the fundamental interest of these amici. Throughout their histories, they have been devoted to the maintenance of these freedoms and to the defense of the individual's right to hold and pursue beliefs of his own free choice. Their long experience and representative viewpoints are, they submit, of unique and particular value to the Court in assessing and evaluating the character and urgency of the matters here at issue.

Amici believe that it is not just the rights of the Worldwide Church of God and its members that are threatened by the State of California's action, but those of every religious body and every American. They are concerned that the Attorney General's claimed power to supervise religious institutions will, if upheld, have drastic consequences on traditional religious freedoms and will point the way toward the adoption of state established standards of religious observation and practice.

Therefore, these amici strongly support the petition of the Worldwide Church of God et al. and urge that this Court accept and consider their accompanying brief, which describes and develops the bases and reasons for that support.

Respectfully submitted,

LEO PFEFFER,
Attorney for Amici Curiae.

Of Counsel:
JOHN W. BAKER,
JOHN W. WHITEHEAD,
JOHN E. STUMBO.

IN THE

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NATIONAL ASSOCIATION OF EVANGELICALS

NORTHERN CALIFORNIA ECUMENICAL COUNCIL

As Amici Curiae in Support of Granting Certiorari

INTRODUCTION.

This brief is respectfully submitted in behalf of the following church and synagogue associations.[1]

National Council of Churches of Christ in the U.S.A.

Synagogue Council of America

Baptist Joint Committee on Public Affairs

Lutheran Church in America

Association of Evangelical Lutheran Churches

Board of Church and Society, The United Methodist Church

William P. Thompson, Stated Clerk of the General Assembly of the United Presbyterian Church in the U.S.A.

National Association of Evangelicals

Northern California Ecumenical Council

The aggregate constituency represented by these associations totals in excess of 80 million Americans. The constituents differ among themselves as to the appropriate or most appropriate way to worship or express reverence to God. The ecclesiastical structures of the associations differ: some are hierarchical, some congregational. Their legal structures differ too: some are unincorporated, some are incorporated under religious corporations laws, some are corporations sole, and some, like the Worldwide Church of God, are organized under general corporation statutes.

What unites them in the submission of the brief is a conviction that when the technicalities of statutes designed to regulate ordinary corporate activities are

[1]Descriptions and statements of interest in respect of these organizations appear in the attached motion for leave to file brief amici curiae, to which the Court's attention is respectfully invited.

used and abused as instrumentalities to destroy a religious association which may be in governmental disfavor at a particular time, the result is a threat to the security of all religions. A religion favored today may be disfavored tomorrow, and no religion is secure unless all are secure.

Religious freedom is the precious heritage of all. Because they feel that the actions of the Attorney General of California threaten that heritage and their own security, the associations joining in this brief respectfully submit it to this Court.

STATEMENT OF THE CASE.

Basically, the substance of the unfortunate litigation is this. The Attorney General of California, acting for the state, has declared that churches and religious organizations are public, charitable trusts accountable to the state and consequently, that:

1. All church or synagogue property is deemed to be public property, rather than being owned by the church or synagogue or its members, and is therefore subject to supervision, regulation and control by the state;

2. All church or synagogue records are public records and are subject to audit and review by the state, whether or not there is reasonable ground for its action;

3. The state may, with or without cause, compel a church or synagogue to account for all of its income and expenditures so that the state may determine if its funds are being used for proper religious purposes;

4. Church or synagogue officials are public trustees who serve as agents of the state and may be removed and replaced by the state at will;

5. The state has the authority to require the reorganization of internal church structures from hierarchical to congregational form;

6. The state may appoint a receiver to take possession of all church or synagogue property and records and supervise operations until the litigation is finally determined, no matter how long that may take; and

7. The state may conduct ongoing investigation as a means of accomplishing all or any of the foregoing objectives.

Basically, the Attorney General claims an inherent common law power (originating in England long before the first amendment became part of our Constitution), reinforced by statute, to supervise, manage and control a church or synagogue on the theory that it is a ward of the state and that its affairs and operation are subject to unlimited and continuing control by the state acting through its Attorney General.

Pursuant to the foregoing doctrine, the Attorney General, upon the relation of six dissident members, filed this lawsuit against the Worldwide Church of God, its principal leaders, and other defendants seeking to compel an accounting by having the Court order the Church to submit to an examination, audit and general investigation of its affairs.

The lawsuit sought to invoke the state's judicial system in order to force disclosure not only of all the assets of the church, but of its activities and operations in the carrying out of its sacred mission. Moreover, in addition to its inquisition, the lawsuit sought to remove and replace the Church leaders and trustees and to restructure the Church organization. The ancillary remedies of receivership and injunction were asked in aid of these objectives.

A receiver (not baptized in the Church) was appointed ex parte and placed in complete charge of the Church for approximately seven weeks, following which the receivership was suspended by the posting of a stay bond upon the Church's appeal.

Subsequently, the Attorney General turned to civil discovery as a means of enforcing his examination and secured a series of sweeping orders from the Court directed against the Church and its principal officers. Among the orders issued pursuant to the Attorney General's demands, for example, was one compelling Herbert Armstrong, the 87-year-old founder and patriarch of the Church, to appear for interrogation and to bring with him every scrap of paper he had accumulated over the many years that he had led the Church.

These defendants, by their petition to this Court, seek review of these orders.

QUESTION PRESENTED.

The question dealt with in the brief is whether the action of the state through its Attorney General, as has been set forth, can be reconciled with the mandate of the first amendment forbidding laws respecting an establishment of religion or prohibiting its free exercise.

SUMMARY OF ARGUMENT.

This case presents a startling and, we believe, unprecedented situation in the history of church-state relations under a constitution that forbids the establishment and secures the free exercise of religion. The state-authorized actions of the Attorney General are predicated on the assumption that a thriving, completely solvent

church with an enviable credit rating, enjoying the full support of the overwhelming majority of its membership, can be taken over and managed by state officials as if it were a failing business corporation unable to meet its debts or pay its workers.

The action challenged herein, sanctioned by California's courts, violates the first amendment's ban on laws respecting an establishment of religion in that it constitutes impermissible state participation in religious affairs, its purpose and primary effect are the inhibition of religion, and its action results in excessive government entanglement with religion.

The action of the State violates the free exercise clause of the amendment in that the State has not established, nor can it establish, the existence of an interest sufficiently compelling to justify infringement upon the congregants' right to the free exercise of their religion in determining how and by whom their affairs shall be governed and their voluntary contributions expended.

ARGUMENT.

I.

THE ACTION OF THE STATE OF CALIFORNIA THROUGH ITS ATTORNEY GENERAL VIOLATES THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT.

A. Introduction.

Recently, in *National Labor Relations Board v. Catholic Bishop of Chicago*, 440 U.S. 490 (1979), the Court said (at page 504):

> The church-teacher relationship in a church-operated school differs from the employment relationship in a public or other non-religious school. We see no escape from conflicts flowing from the Board's exercise of jurisdiction over teachers in church-operated schools and the consequent serious First Amendment questions that would follow.

Although this quotation was dictum in the decision, we quote it to indicate that just as an undoubtedly legitimate governmental interest in labor relations must yield to the higher commands of the first amendment's religion clauses, so too must its asserted interest in protecting the assets of a non-profit corporation.

Unlike the situation in cases involving business corporations or charitable organizations, governmental intrusion into the affairs of churches affect grave constitutional concerns in respect to the integrity of religious institutions and the underlying concept of the establishment and free exercise clauses. Nothing in the first amendment or elsewhere in the Constitution forbids a state from operating a business, or even a school so long as it is not a religious school; our public school systems are predicated on that assumption.

Should, however, this Court sanction operation of a church by a public official, it certainly could operate a parochial school, a result which is clearly contradictory to the principle set forth in our quotation from *Catholic Bishop,* and certainly could not be reconciled with the principles of constitutional law emanating from *Pierce v. Society of Sisters,* 268 U.S. 510 (1925).

B. The Meaning of the Establishment Clause.

1. The Everson Test.

In *Everson v. Board of Education,* 330 U.S. 1, 15 (1947), and later cases,[2] the Court defined the establishment clause in the following language:

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups

[2] *McCollum v. Board of Education,* 333 U.S. 203, 210-211 (1948); *McGowan v. Maryland,* 366 U.S. 420, 430 (1961); *Torcaso v. Watkins,* 367 U.S. 488, 493 (1961).

> and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between Church and State."

It is impossible to reconcile the position of the State of California with this language. If the State is not setting up a church it is certainly taking one over and operating the Worldwide Church of God with the same authority and powers exercised in respect to a church which it sets up. It is forcing and certainly influencing its members to remain away from the church of their choice and forcing upon them choices and actions regarding their church which they clearly would not take of their own volition. Above all, it is not secretly but openly participating in the affairs of a religious organization.

It is, of course, no answer that the State of California, through its Attorney General, may at the present time be liberal in allowing the religious leaders of the Church to conduct what the Attorney General deems to be the purely religious activities of the Church. The state has by no means conceded that it is constitutionally forbidden to do otherwise. On the contrary, it has gone so far as to employ an excommunicated former member of the Church as its chief administrator and has asserted the right to determine which Church programs and ministers should be continued and which terminated. The action it has taken may not shock the conscience of the Attorney General, but it does shock the conscience of the millions of Americans in whose behalf we submit this brief.

2. The Purpose-Effect-Entanglement Test.

Beginning with *Walz v. Tax Commission*, 397 U.S. 664 (1970), and *Lemon v. Kurtzman*, 403 U.S. 602 (1971), and later cases,[3] the Court has expressed the meaning of the establishment clause in language which is somewhat different from that used in *Everson* and the other cited cases, but which is the same in basic substance.[4] In these cases the Court has interpreted the clause to mean that in order to pass constitutional muster, the statute must have a secular legislative purpose, must have a principal or primary effect that neither advances nor inhibits religion, and must not foster an excessive entanglement with religion.

What the Court did in *Walz* and the later cases was to add that, independently of purpose and effect, excessive entanglement with religion violates the establishment clause.

There can be no doubt that if a state law or action fails in respect to any of the prongs of this three-part test it violates the first amendment irrespective

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[3]*Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756 (1973); *Levitt v. Committee for Public Education and Religious Liberty*, 413 U.S. 472 (1973); *Sloan v. Lemon*, 413 U.S. 825 (1973); *Meek v. Pittenger*, 421 U.S. 349 (1975); *Wolman v. Walter*, 433 U.S. 229 (1977); *New York v. Cathedral Academy*, 434 U.S. 125 (1977).

[4]Indeed, the purpose-effect-entanglement test had its origin in *McGowan v. Maryland, supra*, where, as noted, the Everson test was quoted and relied upon. Chief Justice Warren's opinion for the Court concluded with the following paragraph.

> Finally, we should make it clear that this case deals only with the constitutionality of §521 of the Maryland statute before us. We do not hold that Sunday legislation may not be in violation of the "Establishment" Clause if it can be demonstrated that its purpose—evidenced either on the face of the legislation, in conjunction with its legislative history, or in its operative effect—is to use the State's coercive power to aid religion.

of its relationship to the other two. *See, Epperson v. Arkansas*, 393 U.S. 97 (1968), [purpose]; *Nyquist, supra*, [effect]; *Lemon, supra*, [entanglement]. In the present case the action of the State of California through its Attorney General fails in respect to all the three prongs.

a *Purpose.* Laws financing bus transportation to religious schools, upheld in *Everson*, obviously have a secular purpose, that of protecting the safety of children. Laws financing secular instruction in church-related schools likewise have a secular purpose, that of providing pupils with the equivalent of a public-school education in respect to non-religious subjects, although they are unconstitutional by reason of effect or entanglement. We are, however, unable to see what purpose the State's action in this case can have other than the inhibition of the religion professed by the Worldwide Church of God and its members.

The State claims that it is merely acting to prevent fraud. But this it may not do in anything touching the profession and practice of religious doctrine as between a church and its congregants.

In *United States v. Ballard*, 322 U.S. 78 (1944), the Court, with only one dissenter, held that no agency of government has constitutional competency to pass upon the validity of religious profession even when prevention of fraud is asserted to justify its intervention. In language particularly applicable to the present case, the Court there said (at pages 86-87):

> Heresy trials are foreign to our Constitution. Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible

to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law. Many take their gospel from the New Testament. But it would hardly be supposed that they could be tried before a jury charged with the duty of determining whether those teachings contained false representations. The miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer are deep in the religious convictions of many. If one could be sent to jail because a jury in a hostile environment found those teachings false, little indeed would be left of religious freedom. . . . The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When the triers of fact undertake that task, they enter a forbidden domain.

If, on the other hand, criminal conduct is charged, such as embezzlement or theft, then prosecution of the wrongdoers under criminal statutes is a full and complete remedy. Yet, that course has not been here pursued.

The Attorney General's actions in respect to the Worldwide Church of God, we submit, can hardly be explained except on the basis of a purpose to destroy it or at the very least to seriously restrict its pursuit of its religious mission because of the disfavor by him and other officials of the State of California of what it teaches and preaches.

b. *Effect.* It is even more evident and indeed incontrovertible that a principal or primary effect of the state's action is the inhibition of the religion professed by the Worldwide Church of God and its congregants. Here, too, it is not easy to discern any effect other than that of inhibition if not complete destruction. In our "Statement of the Case" part of this brief, we have set forth some of the actions which the Attorney General has already taken and the California Court has refused to enjoin. He has treated as public property all the assets owned or leased by the Church, including premises used for prayer and worship, and asserts that it is all subject to supervision, regulation and control by the state. He has made and acted on the claim that Church officials are public trustees who serve at the will of the state and may be removed by the state at will. Can it be doubted that the effect of these actions is the inhibition of the religion of the Church and its congregation?

The voluminous record in this case discloses many other instances of governmental action having the effect of inhibiting the Church, its officials and its congregants. The Attorney General's frustration of the attempted sale of property owned by the Church so that the proceeds could be used more effectively in furtherance of its religious mission obviously inhibited its exercise of religion. Even more damaging has been the acute disruption and curtailment of vital Church programs by reason of the Attorney General's actions. It is difficult to assess the full extent of the substantial injury suffered by the Church by reason of the state's intervention into an area where it is forbidden to trespass by the mandate of the first amendment.

c. *Entanglement.* The most flagrant violation of the mandate of the establishment clause in the state's war against the Worldwide Church of God deals with the prohibition of entanglement with religion. Governmental entanglement with the religion of the Church is manifest in practically every step the State of California has taken in its real, if perhaps not officially declared, war against the Church. The very appointment of a receiver to manage and control the operation of a church reeks of excessive entanglement. A receiver can, of course, be appointed for a manufacturing or other business organization without violating the constitutional mandate. Nor would the establishment clause be violated by the appointment of a receiver to liquidate the assets of a defunct church or synagogue. But the idea of a state-appointed official controlling the functions and operations of a live, ongoing church is frightening.

Should the California Court appoint a receiver who is of the same faith as that of the congregation? Should a court do so, it would violate the mandate in Article VI of the Constitution against religious tests for public office, a mandate no less binding upon the states, by reason of the first and fourteenth amendments, than upon the federal government. *Torcaso v. Watkins,* 367 U.S. 488 (1961); *McDaniel v. Paty,* 435 U.S. 618 (1978). On the other hand, should the Court seek to appoint a person of a different faith (as was done here) or one whose faith is undisclosed to it in order that the ban on religious tests not be violated, can it be sure that the appointee's hostility to the faith and the church propounding it would nevertheless enable it to make the necessary decisions with complete impartiality? One could hardly

expect dispassionate impartiality from, say, a militant atheist.

How can the Court disentangle decisions relating to the cost of fuel needed to heat a church and the compensation paid to its pastor, sexton or choir members? Should the pastor decide that a newly-published prayer book be used, should the receiver have the power to veto that decision on the ground that the prayer books in use are in good condition and not really different in any significant way from the new prayer book?

Suppose, after a schism in a church, such as happened in the present case, a bishop entertains doubts as to the continued loyalty of a particular minister: can the receiver veto the bishop's decision to dismiss the minister before his contract expires because the added cost of a substitute minister would constitute a waste of the church's assets?

Because of the restrictions placed upon government officials, judges or attorneys general by the first amendment's mandate against entanglement (as well as its guaranty of free exercise), judicial intervention in intra-church disputes and schisms is strictly limited. *Watson v. Jones,* 13 Wall. (80 U.S.) 679 (1872); *Kedroff v. St. Nicholas Cathedral,* 344 U.S. 94 (1952).

We will shortly discuss these cases more fully in Point II of this brief. We refer to them here only to emphasize that where a secular court intervenes in an intra-church dispute the consequence is impermissible entanglement. In the present case, a small dissident minority in the Worldwide Church of God instigated the action and cooperated with the Attorney General in the latter's action against it. Indeed, their private

attorney bore the brunt of the effort for the state during the first several weeks, acting under cover of state authority as a "Special Deputy" Attorney General. But even if this were not so, self-initiated governmental intervention as shown by the record in this case presents constitutionally forbidden entanglement of Church and state.

In short, whether the state's concern relates to the substance of the church mission or the manner in which it fulfills that mission, its involvement to enforce disclosure of church records or its control and management of the church itself inevitably results in entanglement of church and state.

II.

THE ACTION OF THE STATE OF CALIFORNIA THROUGH ITS ATTORNEY GENERAL VIOLATES THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT.

A. Governmental Assaults on Unpopular Religions.

It was and is the purpose of the first amendment's guarantee of religious freedom to protect unpopular creeds and faiths, including those who for some reason or other have lost favor in the eyes of government officials. The heart of the first amendment would be mortally wounded if a comparatively small religious association, such as the Worldwide Church of God, were excluded from its protection because of its disfavor in the eyes of the Attorney General of the State of California.

The Worldwide Church of God is not the first (and unfortunately will not be the last) to suffer governmental discrimination because of its unpopularity:

> In this country, [the Court said in *Watson v. Jones, supra*] the full and free right to entertain a religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all individual members, congregations, and officers within the general association, is unquestioned. [13 Wall. (80 U.S.) at 728-729 (1872)].

In *Kedroff v. St. Nicholas Cathedral, supra,* another case involving a church schism such as the one that sparked the present controversy, the Court, in referring to *Watson v. Jones,* said at p. 116:

> The opinion radiates . . . a spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrines. Freedom to select the clergy, where no improper methods of choice are proven, we think, must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.

The Court concluded its opinion saying:

> Ours is a government which by the "law of its being" allows no statute, state or national, that

> prohibits the free exercise of religion. There are occasions when civil courts must draw lines between the responsibilities of church and state for the disposition or use of property. Even in those cases when the property right follows as an incident from decisions of the church custom or law on ecclesiastical issues, the church rule controls. This under our Constitution necessarily follows in order that there may be free exercise of religion. (344 U.S. at pp. 120-121).

The California Attorney General was not the first governmental official to utilize facially neutral laws relating to corporations as an instrument for the persecution of a particularly disfavored association. The case of *NAACP v. Alabama,* 357 U.S. 449 (1958), is in some aspects remarkably similar to the present controversy. There this Court dealt with a law which, like the one here involved, was neutral on its face and was enacted to protect the people in relation to the activities of commercial and business corporations by requiring disclosure of officers and members. As in the present case, the state Attorney General resorted to that law for the entirely alien purpose of destroying, at least in Alabama, an unpopular national organization. The Court refused to allow use of Alabama's corporation law to effectuate that purpose, and we believe it should not here allow the use of California's law for the same purpose.

The persecutory tactics employed by the Attorney General in this case are aimed not against a disfavored racial association but a religious one. But such tactics were employed against unpopular religious groups long before they were rebuffed in *NAACP v. Alabama.* The history of the struggle for religious freedom in

the United States is in large measure a chronicle of governmental efforts to utilize facially neutral laws to suppress unpopular religions and sects. Even if the ban on bills of attainder, the first amendment's guaranty of religious freedom, and the fourteenth amendment's mandate of equal protection were not insurmountable barriers to outright suppression of the Worldwide Church of God or similar disfavored groups, the conscience of the American people would never allow such action. Hence, the resort to facially neutral laws to achieve the same result.

A facially neutral compulsory school attendance law was utilized in Oregon during the post-World War I period as an instrument of the politically powerful Ku Klux Klan anti-Catholic bigotry, manifested in its efforts to destroy the parochial school system. G. Myers, *History of Bigotry in the United States* (1943), p. 293. That effort was frustrated only by the Court's decision in *Pierce v. Society of Sisters,* 268 U.S. 510 (1925).

Jehovah's Witnesses have been frequent victims of the use of facially neutral laws against unpopular religions in the exercise of their first amendment rights under the free exercise clause. For example, a law forbidding girls under the age of eighteen to sell newspapers or periodicals in public was used against a member of the sect who, under the command of her religious conscience, allowed her children to accompany her while she sold or distributed free the sect's religious publications. See *Prince v. Massachusetts,* 321 U.S. 158 (1944).

In *Cantwell v. Connecticut,* 310 U.S. 296 (1940), the Court struck down not only the conviction of

members of the sect for violation of the common law offense of inciting a breach of the peace, but also a facially neutral statute requiring a license for solicitation of contributions for religious, charitable and philanthropic causes.

Today, Jehovah's Witnesses are an accepted member of the family of American faiths. They reached that enviable station only after a period of trials and tribulations instigated by government officials, hostile to what they believed in and practiced. New laws were enacted and old laws resurrected to supply weapons to curb their activities and, if possible, completely destroy them. All kinds of laws were used or attempted to be used for that purpose; laws against disturbing the peace, antipeddling ordinances, laws against the use of sound trucks, traffic regulations, revenue laws—these and many others were invoked in one way or another against them. See, generally, R. Manwaring, RENDER UNTO CAESAR (1962) *passim;* H. Barber, *Religious Liberty v. Police Power: Jehovah's Witnesses,* AMERICAN POLITICAL SCIENCE REVIEW (April 1947).

The one device apparently not used against the Witnesses was invocation of statutes authorizing state officials to take over the sect's properties and assets as part of a campaign to destroy the sect completely. That device appears to have been conceived by the California Attorney General in his campaign to destroy the Worldwide Church of God.

B. Constitutional Restrictions on Free Exercise.

It need hardly be argued that the Attorney General's actions in respect to the Worldwide Church of God restricts the free exercise of religion on the part of its congregants.

In earlier cases, the Court applied the clear and present danger test, formulated in respect to freedom of speech, to claims of violation of the free exercise clause. *Cantwell v. Connecticut, supra.* Under present interpretations of the clause, government, state or federal, can restrict the expression or exercise of religion only by showing (1) that there is a countervailing governmental interest of such importance as to be deemed compelling, and (2) that there is no alternative for its implementation other than a limitation on the free exercise of religion. *Wisconsin v. Yoder,* 406 U.S. 205 (1972).

Thus, while the Court had upheld compulsory smallpox vaccination over a claim of religious opposition, *Jacobson v. Massachusetts,* 197 U.S. 11 (1905), it held that the free exercise clause gives parents acting on religious grounds the right to remove their children from schools at an age earlier than that sanctioned by a state's truancy laws, *Wisconsin v. Yoder, supra,* and that a state may not constitutionally deny unemployment compensation to a person who refuses to accept employment which would require him to work on his Sabbath. *Sherbert v. Verner,* 374 U.S. 398 (1963).

In *National Labor Relations Board v. Catholic Bishop,* from which we have quoted, the Court quite clearly expressed its view that governmental interest in collective bargaining by employees cannot be deemed

sufficiently compelling to justify intrusions upon the free exercise of religion.

Finally, in *United States v. Ballard,* from which we have also quoted, the Court held that in the absence of proof that a specific factual representation was known to be false when made (a claim not asserted by the Attorney General or anyone else in the present case), the first amendment forbids any agency of government to pass upon the validity of any religious tenet or representation, and from taking action against anyone for expressing it.

We conclude our brief with the following quotation from the dissenting opinion of Mr. Justice Rutledge in *Prince v. Massachusetts,* 321 U.S. at 175-176, a quotation which, coming from a decision involving Jehovah's Witnesses, is no less applicable to the World-wide Church of God and to all other faiths that have come into the disfavor of this or that governmental official:

> No chapter in human history has been so largely written in terms of persecution and intolerance as to the one dealing with religious freedom. From ancient times to the present day, the ingenuity of man has known no limits in its ability to forge weapons of oppression for use against those who dare to express or practice unorthodox religious beliefs. And the Jehovah's Witnesses are living proof of the fact that even in this nation, conceived as it was in the ideals of freedom, the right to practice religion in unconventional ways is still far from secure . . . . [T]hey have been harassed at every turn by the resurrection and enforcement of little used ordinances and statutes. . . . To them, along with other present-

> day religious minorities, befalls the burden of testing our devotion to the ideals and constitutional guarantees of religious freedom. We should therefore hesitate before approving the application of a statute that might be used as another instrument of oppression. Religious freedom is too sacred a right to be restricted or prohibited in any degree without convincing proof that a legitimate interest of the state is in grave danger.

CONCLUSION.

For the reasons set forth herein the petition for certiorari in the present case should be granted and the judgment of the Court of Appeals of California be reversed.

March, 1980.

Respectfully submitted,

LEO PFEFFER,

Attorney for Amici Curiae.

Of Counsel:
JOHN W. BAKER,
JOHN W. WHITEHEAD,
JOHN E. STUMBO.

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IN THE

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October Term, 1979
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Institute for the Study of American Religion

Berkeley Area Interfaith Council

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Methodist Federation Fund

Committee to Defend the First Amendment Research Institute

AS AMICI CURIAE IN SUPPORT OF GRANTING CERTIORARI

FRED OKRAND,
633 South Shatto Place,
Los Angeles, Calif. 90005,
(213) 487-1720,
Attorney for Amici Curiae.
LEE BOOTHBY,
MARK TERRY,
CARL HORN, III,
JEREMIAH S. GUTMAN,
Of Counsel

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

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- Americans United for Separation of Church and State Fund, Inc.
- Institute for the Study of American Religion
- Berkeley Area Interfaith Council
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Christian Legal Society

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AS AMICI CURIAE IN SUPPORT OF GRANTING CERTIORARI

Pursuant to Rule 42 of this Court, the following organizations respectfully move for leave to file a brief amici curiae in support of granting a writ of certiorari in this matter:

1. The American Civil Liberties Union of Southern California is a non-profit organization and regional affiliate of the American Civil Liberties Union, having approximately 20,000 members. Since its founding 56 years ago, it has dedicated itself to the preservation and development of rights guaranteed by the Bill of Rights, notably including the free exercise and establishment clauses of the first amendment.

2. Americans United for Separation of Church and State Fund, Inc., a non-profit Maryland corporation, headquartered in Silver Spring, Maryland, is dedicated to the advancement of the civil and religious liberties granted by the first and fourteenth amendments. Its directors, members of many religious organizations, are also directors of Americans United for Separation of Church and State, a sister organization with some 40,000 members of various religious beliefs residing in all states.

3. The Institute for the Study of American Religion, an Illinois non-profit corporation headquartered in Evanston, Illinois, is a privately supported research facility for the study of small, non-establishment religious bodies and is dedicated to the advancement of their constitutional rights. It compiles and publishes the "Encyclopedia of American Religions" and the "Directory of Religious Bodies in the United States," two standard reference works.

4. The Berkeley Area Interfaith Council, a California non-profit corporation headquartered in Berkeley, California, consists of some 46 religious organizations encompassing Judeo-Christian, Eastern and New Age beliefs. It facilitates communication and aids cooperative action among its members, including action to enhance and vindicate first amendment religious protections.

5. The Christian Legal Society, headquartered in Oak Park, Illinois, is an organization of 2,000 judges, lawyers and law students dedicated to the furthering of Christian values and fellowship in the professional community. Through its Center for Law and Religious Freedom, the Society marshals legal skills and resources to protect and preserve constitutional guarantees of religious freedom.

6. The Methodist Federation Fund was organized under New York law to promote a sense of social obligation within the Methodist Church and to advance constitutionally guaranteed civil liberties, including the separation of church and state.

7. The Committee to Defend the First Amendment Research Institute was organized in the District of Columbia to conduct educational and related activities designed to foster the ideals of the first amendment and to assist those whose first amendment rights are in jeopardy.

Consent to File This Brief of Amici Curiae Was Requested of the Parties but Not Received.

These moving parties requested permission of the parties to this matter to file a brief amici curiae in connection with the petition for a writ of certiorari. Petitioners gave their consent, but respondent, State of California, declined to do so. This motion is accordingly submitted.

The Attached Brief Articulates, from the Informed and Objective Viewpoint of a Broadly Based Group of Major National, Regional and Local Religious and Civil Liberties Organizations, the National Importance of the Subject Case and the Magnitude of the Issues It Tenders.

The moving parties have joined together in one brief because they share one overriding interest in civil liberties generally and a particular interest in that fundamental lib-

erty, religious freedom; they share one perception of grave danger to that freedom posed by the general theory underlying the subject case and the specific threat presented by the contested discovery orders described in the petition; and they share one hope that the Court, if presented with the fullest possible arguments for both sides, will vindicate and preserve that freedom.

None of these amici is either a party to any of the actions involved in the petition before the Court or involved in any of the activities alleged by the respondent, State of California, to constitute wrongdoing on the part of the petitioners. As a consequence, they are in a position, because of their detached but informed status, to present to the Court an objective and knowledgeable point of view to aid it in considering the important issues presented by the petition.

This matter is of major concern to responsible national organizations interested in the preservation of civil freedom generally and in the avoidance of government entanglement in religious institutions specifically. The moving parties believe that the unique vantage points of these various amici afford a valuable perspective in assessing the fundamental constitutional issues presented to the Court.

For the foregoing reasons, these moving parties urge the Court to permit them to file the accompanying amici curiae brief and thereby to urge upon this Court that it grant the petition for a writ of certiorari.

Respectfully submitted,

FRED OKRAND,
Attorney for Amici Curiae.
LEE BOOTHBY,
MARK TERRY,
CARL HORN, III,
JEREMIAH S. GUTMAN,
Of Counsel

IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., ET AL.,
PETITIONERS,

vs.

STATE OF CALIFORNIA, ET AL.,
RESPONDENTS.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three

BRIEF OF

American Civil Liberties Union of Southern California
Americans United for Separation of Church and State Fund, Inc.
Institute for the Study of American Religion
Berkeley Area Interfaith Council
Christian Legal Society
Methodist Federation Fund
Committee to Defend the First Amendment Research Institute

AS AMICI CURIAE IN SUPPORT OF GRANTING CERTIORARI

Introduction.

The defendants in the captioned case have filed with the Court a petition for a writ of certiorari to the California Court of Appeal. The following organizations, more fully described in the motion attached hereto, as amici curiae, strongly support this petition and urge that it be granted:

American Civil Liberties Union of Southern California,
Americans United for Separation of Church and State Fund, Inc.,
Christian Legal Society,
Institute for The Study of American Religion,
Berkeley Area Interfaith Council,
Methodist Federation Fund, and
Committee to Defend the First Amendment Research Institute.

The several interests of these amici find a compelling unity in their common alarm at California's Public Trust Doctrine,[1] which holds that churches are not private institutions of worship but are public trusts, accountable to the State and subject to its unlimited scrutiny. Second Amended Complaint ¶¶10, 11 and 25, App. at 15-16, 23-24. If allowed to stand, this doctrine would accomplish a retrogression of over three centuries. It would redirect our steps toward the time, as noted by Thomas Jefferson, when "at the common law, heresy was a capital offense, punishable by burning,"[2] and it would re-enshrine the "arrogant pretension, falsified by the contradictory opinions of rulers in all ages and throughout the world . . . [that] . . . the Civil Magistrate is a competent Judge of Religious truths . . ." as well as the "unhallowed perversion . . . [that] . . . he may employ Religion as an engine of Civil policy."[3]

[1]The California Attorney General bases this doctrine on the common law, adopted in California by Cal. Civ. Code §22.2 (West, 1980). State's Opposition to Demurrer to the First Amended Complain (dated 28 June 1979) at 10, *People v. Worldwide Church of God, Inc. et al.*, Case No. C 267607 (Superior Court of the State of California for the County of Los Angeles), App. at 1; transcript of hearing of 10 January 1979 in *People v. Worldwide Church of God, Inc. et al.*, at 7, App. at 3; State's Brief in Opposition to Petition for Certiorari (undated) at 16-17 and 19-20, *Worldwide Church of God, Inc. et al. v. The State of California*, October Term 1978, No. 78-1720 (United States Supreme Court), App. at 4-5; Defendants' Response to Plaintiffs' Motion for Judgment on the Pleadings and Plaintiffs' Motion for Summary Judgment; Request to Take Judicial Notice (dated 20 August 1979) at 4-5, *Lopez, et al. v. State of California, et al.*, Case No. C 276767 (Superior Court of the State of California for the County of Los Angeles), App. at 6-7. Consequently, the issues raised by the petition are potentially applicable to all churches in common law jurisdictions, however organized. The Attorney General also asserts that the common law basis for the State's actions is expressed in former Cal. Corp. Code §9505 (West, 1979) (App. at 8) and current Cal. Corp. Code §9230 (West, 1980) (App. at 9-10).

The constitutional validity of this Public Trust Doctrine is squarely tendered to the Court for decision by the petition, through the specific challenge it presents to one of that doctrine's principal corollaries, namely the State's asserted right to control and conduct unlimited examination of churches through the medium of coerced disclosure.

Amici believe that the power claimed by the State of California and exercised through the discovery orders attacked in the petition represents a clear and present danger to first amendment religious rights.

Statement of the Case.[4]

The State of California, through its Attorney General, asserts that all churches and religious organizations are pub-

[2]Thomas Jefferson, *Notes on the State of Virginia* 263 (London 1787).

[3]James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶5 in II *The Writings of James Madison* 183, 187 (G. Hunt ed. 1910).

[4]The facts stated herein repeat, in principal part, those contained in the detailed statement of the case and supporting references of the petition. Amici will therefore confine their supporting citations to those items or statements not specifically reflected or documented in the petition.

lic charitable trusts having no proprietary interest in their funds, assets or property, since these are all held in trust for the benefit of the *general public*;[5] church assets are therefore public assets and church records are public records,[6] and in these matters there are no private interests and consequently no private rights;[7] church officers and leaders are trustees, serving at sufferance and replaceable at the State's pleasure;[8] churches are obligated to account to the State for the assets they hold (including the contributions of members) on an ongoing basis;[9] the State is empowered to oversee and supervise all churches in the management of their assets and, in this connection, to examine, audit and control all activities touching church property and finances.[10]

In short, the State of California contends that while individuals may believe what they wish, when they organize

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[5]Second Amended Complaint ¶10, App. at 15-16, and transcript of hearing to confirm receiver's appointment (12 January 1979) at 361, App. at 34-35. Unless otherwise noted, all hearings and documents relate to *People of the State of California v. Worldwide Church of God, Inc., et al.*, Case No. C 267607 (Superior Court of the State of California for the County of Los Angeles).

[6]Second Amended Complaint ¶10, App. at 15-16, and transcript of ex parte hearing to appoint a receiver (2 January 1979) at 7, App. at 42.

[7]Transcript of ex parte hearing to appoint a receiver (2 January 1979) at 3, App. at 38-39.

[8]Second Amended Complaint ¶10, App. at 15-16, State's Opposition to Demurrer to First Amended Complaint at 19-20, 21, App. at 2, transcript of hearing to confirm receiver's appointment (12 January 1979) at 362, App. at 35, and transcript of ex parte hearing to appoint a receiver (2 January 1979) at 3-4, App. at 38-39.

[9]Second Amended Complaint ¶¶11 and 25, App. at 16, 23-24, and transcript of ex parte hearing to appoint a receiver (2 January 1979) at 3, App. at 38-39.

[10]Id.; *see also*, Second Amended Complaint ¶1, App. at 11, and State's Response to Application for Stay of Receivership (undated) at 8, App. at 49-50.

or come together in order to give effect to (i.e., to *exercise*) shared beliefs or take steps to propagate them, such as the collection and disbursement of funds, construction or purchase of buildings or the execution of programs in fulfillment of their mission, they enter upon a *secular* pursuit which the State steps in to oversee and control in order to satisfy itself, *inter alia*, that the assets are being put to uses which *the State* regards as appropriate to the "purposes" of the church.[11] The challenged orders reflect the approval of these principles by California courts.

In accordance with the foregoing theory, California's Attorney General filed the subject action[12] on the relation of some six dissident members of the Worldwide Church of God whose views on matters of applied doctrine and Church priorities differed with those of their brethren and the Church's hierarchy. In the action, the State sought to compel a comprehensive accounting from the Church by means of a court-ordered audit and examination of all Church receipts and expenditures. The ancillary remedies of receivership and injunction were invoked to facilitate this. In addition, the State sought to remove and replace top Church leaders and trustees; to force the Church to abandon its hierarchical polity and embrace a congregational form of governance; to secure disgorgement and restitution and

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[11]However surprising this may seem, the Attorney General nevertheless claims that the State must determine whether church activities are consonant with a church's stated purposes. To the extent it finds this is not the case, the State must then take appropriate action to correct this "departure." *See*, former Cal. Corp. Code §9505 (West, 1979), App. at 8, cited by the Attorney General as authority for this view.

[12]*People of the State of California v. Worldwide Church of God, Inc. et al.*, Case No. C 267607 (Superior Court of the State of California for the County of Los Angeles, 2 January 1979).

to obtain orders perpetually enjoining certain Church officers from holding *any* office in *any* church.[13]

The State[14] secured, ex parte, the appointment of a receiver who assumed complete control over the Church and exercised this authority for approximately seven weeks. This receivership was eventually suspended by the posting of a stay bond in connection with the Church's appeal.

The Attorney General, prevented from enforcing the examination he sought through the medium of the receivership, then turned to civil discovery as an avenue for accomplishing the same result. He sought and obtained from the court a series of discovery orders directing the Church and its officers to produce virtually every piece of paper generated by any of them during the preceding several years and to

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[13]See generally the Second Amended Complaint, App. at 11-33. The second paragraph of the prayer requested

> an order removing the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge from holding any office or employment in or under [the Worldwide Church of God, Ambassador College, or Ambassador International Cultural Foundation] and cancelling and nullifying any contracts of employment which may have heretofore been entered between them and said entities and further enjoining and restraining said defendants from holding any office of employment under the said . . . entities in the future, or in or under any California charitable corporation trust or charitable organization.

A principal ground cited for this nakedly punitive relief was the resistance these individuals offered to the State's demands, i.e., their assertions of constitutional objections. In other words, the State seeks to punish them for asserting their rights. *See*, Second Amended Complaint ¶¶18-22, App. at 20-21.

[14]The original pleadings were actually conceived and drawn by the relators' private attorney, who was instrumental in the selection of the receiver and the imposition of the receivership. He was "deputized" both by the receiver and by a Deputy Attorney General and, under the canopy of official auspices, acted as lead counsel for the State during the first several weeks of the litigation. Declaration of Hillel Chodos in Support of Motion for Attorneys' Fees (dated 27 February 1979), petition app. 7-1.

explain and justify virtually every transaction reflected therein.

These orders[15] would require, by way of partial example, that petitioners turn over to the State, for its scrutiny:

> (a) All minutes of meetings of the Church's board of trustees during the preceding twenty-two years, including minutes of committee meetings;
>
> (b) All documents evidencing any communication between the Pastor General and any officer, minister or employee of the Church (similar orders are directed to other officers);
>
> (c) Wholesale quantities of financial records reaching back for decades (the Pastor General was ordered to produce, *inter alia*, all church corporate minutes, *since their inception!*);
>
> (d) Records reflecting the source, amount and application of contributions to the Church;[16] and
>
> (e) Records indicating the disposition of funds pursuant to Church programs for welfare and relief of indigent persons including the identities of the recipients of such relief.

The foregoing sampling gives some flavor of the massive sweep of the State's proposed examination as well as the cooperation which these requests have elicited from the trial court.

If this petition for writ of certiorari be denied, the ensuing enforcement of these orders will lay the Church bare to

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[15]Reproduced in full in petition appendices R-W, *see also*, petition appendix X for a list of the documents required by these orders.

[16]While Church membership lists are not specifically so designated, the general demands are broad enough to include, and thus call for, them. *See, e.g.* petition appendix at 77b(¶¶1, 4) and 78b(¶8).

unrestricted public exposure of its private communications and records, not excluding those touching ministerial, doctrinal, penitential and other privileged matters. In its train will ensue, with historic inevitability, the intimidation and coercion, not to say persecution, of the Church's members and its leaders.

The attitude with which petitioners' objections and claims of privilege have been received may be sensed, perhaps, from the observation of one trial court judge from the bench who warned that a contention by the Church that any documents touching financial affairs were ecclesiastical in character would be taken by him as "evidence of bad faith."[17]

A further indication in this vein is furnished by the trial court's order (attacked in the petition) suspending all right of discovery by petitioners until such time as they forbear from pursuing appellate remedies and acquiesce in the challenged directives.

All appeals to higher courts have to date been unavailing, and the petition to this Court is the last remaining barrier to the wholesale invasion of the Church's privacy and sanctity. If the Court acts in response to the petition, petitioners' rights, otherwise irreparably lost, will be preserved, and a first amendment issue of transcending importance will be squarely posed for resolution, namely, the propriety of the challenged orders themselves, and, in turn, the constitutional validity of the underlying doctrinal claim that threatens the independence of this and every other church.

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[17]Statement of the Honorable Julius M. Title, Judge of the Superior Court of the State of California for Los Angeles County in the hearing of 21 February 1979 in the subject case, transcript p. 137, App. at 52.

Question Presented.

Can California's Public Trust Doctrine and its corollary of coerced disclosure be lawfully applied to all California churches and religious organizations compatibly with the first amendment's limitations on laws respecting an establishment of religion or prohibiting its free exercise?

Summary of Argument.

California's Public Trust Doctrine creates a new and frightening relationship between church and state, pursuant to which the state impresses a "public trust" upon all of the means by which religiously held beliefs are exercised and given effect. Its requirement of mandatory disclosure makes public business of private institutional worship and intimidates and inhibits its free exercise. In so doing, it collides head on with the first amendment.

Under the Public Trust Doctrine, the funds and properties of California churches are escheated to public ownership, their leaders made accountable to — and removable by — the State. The Attorney General's Office becomes a bureau for the general inspection and regulation of religion charged with the duty of supervising church activities and correcting "departures" from stated purposes. This results in a forbidden establishment and a chilling, inquisitorial entanglement.

The Public Trust Doctrine is not an ad hoc aberration applied only to petitioners, but a settled, systematically applied policy.

The Public Trust Doctrine responds to no compelling state interest not fully served by less perilous, less radical and more conventional remedies.

The issues presented are fully ripe for decision: the threatened rights will be irreparably invaded and devastated unless the Court acts at this time.

ARGUMENT

I.

California's Public Trust Doctrine as Applied to Churches and Religious Organizations Is Inescapably Repugnant to the Free Exercise of Religion.

The rights expressed in the free exercise and establishment clauses of the first amendment were the first ones dealt with in the Bill of Rights simply because the founders assigned to them transcendent importance. To them "religious freedom was the crux of the struggle for freedom in general."[18] It still is.

As the Court has held, the free *exercise* of religion includes not only the freedom to believe, which by its nature is absolute, but also the freedom to act in accordance with that belief. The latter, while not absolute, may be circumscribed only in response to a compelling interest.[19] Free belief, indeed, means little if one cannot exercise one's belief by joining with others of like mind to assemble in common worship, propagate the shared belief and pool common resources in order to create the facilities and finance the activities that will accomplish these purposes.

No right is more private or more personal than one's religious belief. In Madison's words, "[t]his right is in its nature an unalienable right. It is unalienable; because the

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[18]*Everson v. Board of Education*, 330 U.S. 1, 34, 91 L.Ed. 711, 733, 67 S.Ct. 504 (1947) (dissent of Rutledge, J.). *See also*, James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶15 in II *The Writings of James Madison* 183, 190-91 (G. Hunt ed. 1910): and Brant, *James Madison, The Virginia Revolutionist* 243 (1941): "Madison looked upon . . . religious freedom, to judge from the concentrated attention he gave it, as the fundamental freedom."

[19]*Sherbert v. Verner*, 374 U.S. 398, 403, 10 L.Ed. 2d 965, 969-70, 83 S.Ct. 1790 (1963); *Wisconsin v. Yoder*, 406 U.S. 205, 229-30, 32 L.Ed. 2d 15, 32-33, 92 S.Ct. 1526 (1972); *McDaniel v. Paty*, 435 U.S. 618, 631 n.2, 55 L.Ed.2d 593, 604, n.2, 98 S.Ct. 1322 (1978) (concurrence of Brennan, J.)

opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also; because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation to the claims of Civil Society."[20]

The right is not one conferred by governments, because one's religion, as the founders[21] and the Court[22] have recognized, is a matter beyond the scope of civil power. The State cannot withdraw this right; it can only seek to control and frustrate it, something that is automatically accomplished by public intervention and exposure.

One of the least subtle and most effective ways of controlling, abridging and ultimately destroying the right is to establish state surveillance, control and regulation over the *means* of its exercise. California's Public Trust Doctrine achieves this very efficiently through the deceptive but ingenious device of redefinition, relabeling.

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[20]James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶1 in II *The Writings of James Madison* 183, 184-5 (G. Hunt ed. 1910).

[21]James Madison, private letter, undated, in *IX The Writings of James Madison* 484, 487 (G. Hunt ed. 1910).

[22]*Abington School District v. Schempp*, 374 U.S. 203, 219, 10 L.Ed.2d 844, 856, 83 S.Ct. 1560 (1963) (emphasis added):

> [t]he state cannot forbid, neither can it perform or aid in performing the religious function. *The dual prohibition makes that function altogether private.*

Lemon v. Kurtzman, 403 U.S. 602, 625, 29 L.Ed.2d 745, 763, 91 S.Ct. 2105 (1971):

> The Constitution decrees that religion must be a private matter for the individual, the family, and the institutions of private choice. . . .

By declaring every charitable organization to be a public trust and every church to be a charitable organization, every church becomes, *ipso facto*, a public trust, accountable to the State as guardian of the public interest. The State thus enables itself to strip away the privacy and sanctity essential to free exercise by exposing to public scrutiny, surveillance, regulation and audit the means of exercise, i.e., the institutions, through which the shared beliefs are given effect and the commonly perceived mission is carried out. In the process, an apparatus of control is spawned and fastened into place.

The chilling, inhibitive and ultimately interdictory character of the power thus fashioned is self-evident. The reality of this iron hand is not tempered by the velvet glove of purportedly beneficent purpose, such as the protection of "public" assets or the scourging of miscreants. The teachings of history reinforce this conclusion. As far back as the recorded word reaches, it reflects the attempts of rulers to control the beliefs of men or coerce them into a desired uniformity by extending just such pervasive, ostensibly protective control over the means by which such beliefs are or could be *exercised* whether, as Madison described, by usurpation on the part of the state itself or through a "corrupting coalition or alliance"[23] between the state and an established or favored sect.

The Court has perceptively recognized the intimidating and ultimately inhibitive effect of coerced disclosure on the exercise of First Amendment rights in firmly proscribing state scrutiny of the membership lists of *non*-religious, private organizations. *NAACP v. Alabama*, 357 U.S. 449, 462, 2 L.Ed.2d 1488, 1499-500, 78 S.Ct. 1163 (1958); *Buck-*

[23]James Madison, private letter, undated, in IX *The Writings of James Madison* 484, 487 (G. Hunt ed. 1910).

ley v. Valeo, 424 U.S. 1, 64-66, 46 L.Ed.2d 659, 713-14, 96 S.Ct. 612 (1976).[24]

Neither, by the same token, may the State evade these constitutional restraints by classifying churches as public organizations. The State "cannot make public business of religious worship,"[25] whether personal or institutional. Churches are but the extensions of man's most private and inalienable right. They are private and voluntary organizations in the ultimate sense of those words, and the fact that their membership may be drawn from a significant sector of the public does not alter this fact. Some are large, but many are small. To permit the State, by legal sleight of hand, to transform them into *public* entities subject to the State's scrutiny and regulation inescapably nullifies the very meaning of free exercise, notwithstanding that the State may still purport to allow to the individual his right to hold or contemplate what personal beliefs he will, since he may not freely exercise them.

The immediate issue presented by the petition emphasizes what we have said above. No single device is more evocative of inquisitorial power or susceptible to inquisitorial abuse than the power of coerced disclosure. Theoretical free exercise is of little moment if the private church organizations which give substance and effect to joint belief are subject to surveillance and control, their institutional records and papers may be seized, their leaders may be summoned to

[24]*See also, Gibson v. Florida Investigation Committee*, 372 U.S. 539, 543-45, 556-58, 9 L.Ed.2d 929, 934-35, 941-42, 83 S.Ct. 889 (1963) and *Surinach v. Pesquera de Busquets*, 604 F.2d 73, 77-78 (1st Cir. 1979).

[25]*Lemon v. Kurtzman*, 403 U.S. 602, 633, 29 L.Ed. 2d 745, 767, 91 S.Ct. 2105 (1971) (concurrence of Douglas, J.), *see also, United States v. 564.54 Acres of Land*, ... U.S. ...., 60 L.Ed.2d 435, 444, 99 S.Ct. 1854, 1859-60 (1979).

submit to public interrogation and to justify the manner in which they carry out their religious mission.

The courts have hitherto had few occasions to consider the question of compelled disclosure for the reason that, until recently, it was considered unthinkable. However, the issue has recently been presented in an increasing number of cases, and the federal courts have almost uniformly rejected it. *See, e.g., Buckley v. Valeo*, 424 U.S. 1, 64-68, 46 L.Ed.2d 659, 713-16, 96 S.Ct. 612 (1976); *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 712-14, 49 L.Ed.2d 151, 165-66, 96 S.Ct. 2372 (1976); *Surinach v. Pesquera de Busquets*, 604 F.2d 73, 78-80 (1st Cir. 1979); *Fernandes v. Limmer*, 465 F.Supp. 493, 504-505 (N.D. Texas 1979)[26]

This is not to say that the state is powerless to control *any* activity undertaken in the name of religion. As the Court observed in *Sherbert v. Verner*, 374 U.S. 398, 403, 10 L.Ed.2d 965, 970, 83 S.Ct. 1790 (1963), the right to act must give way to circumstances of compelling interest, as in the case of conduct that "pose[s] some substantial threat to public safety, peace or order." Manifestly, individual criminal conduct may be prosecuted and punished as such regardless of the fact that it may have been religiously inspired,[27] as we discuss more fully in Section IV below.

This is quite different, however, from the institutionalized state intrusion into the affairs of religious organizations and

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[26]Decisions considering restrictions imposed on coerced disclosure by the establishment clause will be discussed in the next section and include *Lemon v. Kurtzman*, 403 U.S. 602, 619, 29 L.Ed.2d 745, 759-60, 91 S.Ct. 2105 (1971); *NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502-504, 59 L.Ed.2d 533, 542, 99 S.Ct. 1313 (1979); and *McCormick v. Hirsch*, 460 F.Supp. 1337, 1357-58 (M.D. Pa. 1978).

[27]*Davis v. Beason*, 133 U.S. 333, 341-42, 33 L.Ed. 637, 639-40, 10 S.Ct. 299 (1890).

the systematic surveillance and supervision of their affairs that is mandated by California's Public Trust Doctrine. This latter, amici submit, is organically hostile to free exercise.

II.

California's "Public Trust" Doctrine by Its Very Terms Constitutes an Establishment of Religion, and the Means by Which Its Effectuation Is Sought Creates an Institutionalized Entanglement by the State in Church Affairs.

What we have said with respect to free exercise applies with equal force to the first amendment's mandate against an establishment of religion.

If the common law transforms every California church into a public trust with the State as the ultimate trustee for the beneficiary public, then the State is the *ultimate* establishment.

If all California church property is public property and all church records are public records, then the State of California is the equal of England's sovereign, who, in addition to being the supreme civil authority, was also "the supreme head in earth of the Church of England, and . . . [had] . . . all jurisdictions, authorities and commodities to the dignity of the supreme head of the church appertaining."[28]

If, as contended by California's Attorney General, leaders of California churches are mere trustees serving at sufferance, who may be removed by a court at will, it is the State which actually wears the bishop's mitre, and separation becomes a mockery.

If all California churches and religious organizations are obliged to account to the State, and the State, on the other hand, is authorized and empowered to examine their affairs

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[28]I Blackstone's Commentaries 279 (Lewis Ed.).

at will, to supervise the management of their property and assets and to regulate their activities, an institutionalized entanglement of the one in the other's affairs is inescapable.

If the State, whether through the Attorney General or a court, is empowered to decide for itself what is or is not ecclesiastical and to determine finally whether the manner in which a church performs its religious mission is in conformity with "the general purposes for which it is formed,"[29] that entanglement is exalted to a doctrinal level, and the very inquiry which the Court has characterized as "impermissible"[30] becomes sanctified.

Amici urge that the mere recital of the foregoing corollaries, which flow inevitably from the Public Trust Doctrine and have found enforced application in the subject case, demonstrates the repugnance of this Doctrine, which is the supporting premise of the action, to the establishment clause.

Without here attempting exhaustively to brief or discuss the merits of the issue, amici draw the Court's attention to certain of its own recent holdings on the issue and those of courts which have followed them. *See, Lemon v. Kurtzman*, 403 U.S. 602, 619, 29 L.Ed.2d 745, 759, 91 S.Ct. 2105 (1971); *New York v. Cathedral Academy*, 434 U.S. 125, 132-33, 54 L.Ed.2d 346, 353-54, 98 S.Ct. 340 (1977); *NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502, 59 L.Ed.2d 533, 542, 99 S.Ct. 1313 (1979); *Surinach v. Pesquera de Busquets*, 604 F.2d 73, 78 (1st Cir. 1979); *McCormick v. Hirsch*, 460 F.Supp. 1337, 1357-58 (M.D. Pa. 1978).

One of the specific evils forseen by Madison, against which the establishment clause was designed to protect,

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[29]Cf. former Cal. Corp. Code §9505 (West, 1979).

[30]*NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502, 59 L.Ed.2d 533, 542, 99 S.Ct. 1313 (1979).

was the possibility of "a corrupting coalition or alliance"[31] between the State on the one hand and a favored religious group on the other. The subject action had its genesis in just such an alliance, for it was private dissidents within the defendant Church who made common cause with the State as their champion, and it was the private attorney for this group who conceived the action, drafted its pleadings, assumed tactical control and, wrapped in the mantle of public authority, carried the laboring oar.[32] Quite aside from the general impropriety of the State's committing its name and resources to a role in support of parties in a private dispute,[33] the State has here placed itself in the bizarre position of imposing the views of a tiny handful of dissidents upon the entire Church membership of over seventy thousand.

If the Church is, indeed, the ward of court and State, as California's Attorney General has urged, the historic priority so memorably articulated by Madison, that man's right and duty towards his Creator is "precedent both in order of time and degree of obligation to the claims of the Civil Society"[34] would be reversed and thus obliterated.

Amici believe that the Court cannot and would not countenance such a result.

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[31]James Madison, private letter, undated, in IX *The Writings of James Madison* 484, 487 (G. Hunt ed. 1910).

[32]See n.14.

[33]*Kansas v. United States*, 204 U.S 331, 340-41, 51 L.Ed. 510, 512-13, 27 S.Ct. 388 (1907); *Oklahoma v. Atchison, T. & S.F.R. Co.*, 220 U.S. 277, 288-89, 55 L.Ed. 465, 468-69, 31 S.Ct. 434 (1911); *People v. Pacheco*, 29 Cal. 210, 213 (1865); *People v. Brophy*, 49 Cal.App.2d 15, 34-36, 120 P.2d 946 (1942); *People of the State of New York v. Ingersoll*, 58 N.Y. 1, 13-17 (1874).

[34]James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶11 in II *The Writings of James Madison* 183, 184-5 (G. Hunt ed. 1910).

III.

The Subject Case Is Not an Isolated One. It Reflects a Program of Systematic Supervision and Examination of Churches by California's Attorney General.

The subject case is not an isolated one, and the Public Trust Doctrine enunciated therein by the Attorney General is not an ad hoc affair, but a statement of settled policy. The subject case simply represents the most ambitious and unabashed application of this policy to date.

In other cases, the same principles are being urged upon the California courts and similar relief sought by the Attorney General. See, for example, *Younger v. Faith Center, Inc.*, Case No. C254329 (Superior Court of the State of California for the County of Los Angeles; Appeal pending in California Court of Appeal for the Second Appellate District, 2d Civil No. 56574).

In a letter to California State Assemblyman William H. Ivers, dated 31 January 1979,[35] the Attorney General stated:

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[35]App. at 53-55. In the same letter, the Attorney General once again sets forth his "Public Trust Doctrine" as follows:

> In the eyes of the law, each [non-profit corporation affilliated with the Worldwide Church of God] is deemed to be a charitable organization, holding its assets in trust for the public good.
>
> In recognition of the public interest in charities, it has been consistently held by the courts that the state has the duty and obligation to oversee the handling of their assets. . . .
>
> Accountability and proper disposition of charitable assets are required at all times by all charitable organization. . . .
>
> . . . .
>
> [T]he law imposes an affirmative duty on this office to require trustees of religious organizations to be accountable for all funds and other assets . . . .

In a similar letter dated 21 June 1979 (App. at 56-58), addressed to Oakland attorney Ralph L. Baker, a member of the Advisory Committee of Alliance for the Preservation of Religious Liberty, this theme is stated again, with variations:

> In your letter you express concern over actions taken by the Attorney General's office against the Worldwide Church of God and Faith Center Church. Under the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

> There are, of course, other cases in which this office has involved itself in the supervision of assets held by religious corporations many of which were resolved short of trial and appeal.

And in an Associated Press article appearing on 20 September 1979, in the Pasadena Star-News,[36] Chief Deputy Attorney General Michael Franchetti was quoted as saying that "the Attorney General's office has been auditing [churches] and conducting investigations for years with no complaints."

Thus the subject case is merely the tip of the iceberg. This raises a number of rather chilling questions:

1. How many churches have been brought under the "supervision" of California's Attorney General?

2. What criteria does the Attorney General apply in determining which churches shall be the beneficiaries of his scrutiny?

3. What State-imposed standards does the Attorney General apply in supervising management of church assets to determine whether they are being used for proper religious purposes?

4. How many religious organizations have yielded to state intrusion because they lack the capacity, resources or will to resist?

These amici curiae are also concerned that many religious organizations may not prove strong enough to turn back

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> The statutes and court decisions clearly impose a duty upon the Attorney General's office to ensure that funds and assets of charitable organizations are used for the purposes in the Articles of Incorporation.
>
> Accountability and proper dispositon of charitable assets are required at all times by all charitable organizations.

[36]App. at 62-63.

official demands by the state and certainly not sturdy enough to withstand a sustained assault such as that being mounted against the Worldwide Church of God. The ominous reference by the Attorney General to "other cases . . . many of which have been resolved short of trial or appeal" raises the spectre of systematic and successful state coercion, leading ultimately to state-established standards of religious observance and practice.

IV.

No Compelling State Interest Has Been Cited, or Could Be Cited, by the Attorney General to Justify the Powers Claimed or the Orders Issued in the Subject Case.

As the Court has repeatedly emphasized, e.g., in *Everson v. Board of Education, supra*, and *Sherbert v. Verner, supra*, the freedom to believe is absolute, and its inseparable counterpart, the freedom to act, can be abridged only by the most compelling state interest. Mr. Justice Rutledge stated that the first amendment mandate "secures all forms of religious expression, creedal, sectarian or nonsectarian, wherever and however taking place, except conduct which trenches upon the like freedoms of others or clearly and presently endangers the community's good order and security." *Everson v. Board of Education*, 330 U.S. 1, 32, 91 L.Ed. 711, 732, 67 S.Ct. 504 (1946) (dissent of Rutledge, J.).

The "compelling interest" cited by the Attorney General of California to justify the power he wields pursuant to the Public Trust Doctrine is alleged to be the prevention of fraud and the protection of churches against the diversion of their assets to private or personal benefit.

Preliminarily, these amici note that this assertion rests upon the untenable ground, earlier discussed, that churches

are public trusts, publicly owned and subject to public oversight. They are not, however, as we have seen. They are private organizations, and their officers, directors and members are fully capable of detecting wrongdoing and pursuing its redress by whatever avenues they judge to be most effective, including recourse to the courts.[37]

Secondly, amici observe that if conduct brought to the attention of the Attorney General is criminal in character, i.e., in the nature of a *public* offense, the public interest is fully and adequately secured by the prosecution of the accused individuals pursuant to appropriate criminal statutes. *Intern. Soc. for Krishna Consciousness v. Bowen*, 600 F.2d 667, 669 (7th Cir. 1979); *see also, Cantwell v. Connecticut*, 310 U.S. 296, 306, 84 L.Ed. 1213, 1219, 60 S.Ct. 900 (1940).

These amici further observe that the charges specified by the Attorney General in his complaint are, in substance, criminal: i.e., theft and embezzlement.[38] To the extent that

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[37]Cal. Corp. Code §9501 (1979, West); Cal. Corp. Code §§9140-42 (1980, West); *see also, Watson v. Jones*, 80 U.S. (13 Wall.) 679, 20 L.Ed. 666 (1872), *Presbyterian Church v. Hull Church*, 393 U.S. 440, 21 L.Ed.2d 658, 89 S.Ct. 601 (1969), and *Jones v. Wolf*, ... U.S. .... , 61 L.Ed.2d 775, 99 S.Ct. 3020 (1979), illustrating the manner in which private litigants may enforce church rights, *but cf., Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94, 97 L.Ed. 120, 73 S.Ct. 143 (1952) and *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 49 L.Ed.2d 151, 96 S.Ct. 2372 (1976), illustrating the limits on such recourse.

[38]These amici take no position with respect to the merits of the charges contained in the Attorney General's complaint and articulated in his other pleadings, nor do they suggest or urge that religious freedom may be utilized as a protective cloak for criminal activity. They note, however, the observation of one writer on this case that "in all of [the Attorney General's] activity, and after months had passed, only one thing was missing — a single misdeed by a church official or employee had yet to be proven in a court of law." Worthing, "The State Takes Over a Church," Annals Amer. Acad. Pol. & Soc. Sci., 446:136, 137 (November 1979). *See also* Wiley, "A Constitutional Outrage," Lib-

(footnote continued on following page)

criminal conduct is charged, the state possesses an arsenal of tools, in a proper criminal context, to investigate, adduce evidence and, if justified, prosecute. To the extent that investigation yields insufficient evidence to pursue prosecution, no public interest, compelling or otherwise, is demonstrated.[39]

The relief sought by the Attorney General in the subject case, i.e., receivership, injunction, removal and banishment from office, organizational restructuring, disgorgement and restitution, et cetera, is all relief which is essentially *private* in nature, any right to which inheres to the *Church*, but not to the State, and which could be pursued by the Church upon the initiative of any of its trustees or officers or, derivatively, at the suit of its members. For the State to thrust itself into the position of preempting the rights of these private individuals and entities to determine for themselves what, if any, injury has been inflicted and what, if any, remedies to pursue, is not only unwarranted, but impermissible, and it certainly responds to no compelling public interest.[40]

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erty Magazine, 74(3):2, 7 (May/June 1979). Nonetheless, they are gravely concerned with assuring that any charges of criminal conduct or wrongdoing be pursued in a proper manner in accordance with authorized procedures fully attended by appropriate constitutional safeguards. Substantially less appears to have been accorded in the subject case, and these amici suggest that the novel and dangerous form of action devised by the Attorney General will, unchecked, only produce further activity of like kind.

[39]The Church leaders against whom the principal charges are levelled have publicly demanded that the Attorney General indict and prosecute them individually, if he possesses evidence to support the charges, rather than attacking the Church. Public statement of Stanley Rader, Treasurer and Director of the Worldwide Church of God, Inc., made 22 January 1979 and telecast in a presentation aired 16 January 1980 on KCOP, Los Angeles; *see*, excerpt Final Script, "The First Amendment: Church Versus State," at 19, App. at 69.

[40]*Kansas v. United States*, 204 U.S. 331, 340-41, 51 L.Ed. 510, 512-13, 27 S.Ct. 388 (1907); *Oklahoma v. Atchison, T. & S.F.R. Co.*,

(footnote continued on following page)

Lastly, amici question the value to the Church and its congregants of this uninvited "protection" which has blackened their names, desecrated their central sanctuary, devastated Church programs and demonstrably caused monetary damage in the millions. Historically, just such "protection" has too often been the cover and pretext for the infliction of bloody repression and persecution.

Once again, without assuming fully to develop the issue at this point, amici believe the foregoing not only demonstrates the absence of any compelling state interest to justify the draconian invasion perpetrated by California's Attorney General, but represents the actual realization of the very danger apprehended by the founders, namely the state's usurpation of that fundamental right of decision which belongs to the individual and the consequent nullification of the religious freedom mandated *jointly* by the free exercise and establishment clauses of the first amendment.

V.

The Issues Tendered Are Fully Ripe for Decision. Unless the Court Acts, the Threatened Rights Will Be Irreparably Lost.

The enforcement of the challenged orders would result in the irreparable loss of the first amendment rights which petitioners have struggled to protect. Indeed, by virtue of their intentionally overlapping character, enforcement as against only one party would compromise the rights of all.

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220 U.S. 277, 288-89, 55 L.Ed. 465, 468-69, 31 S.Ct. 434 (1911); Cal. Code Civ. Proc. §§337, 339; Cal. Civ. Code §3369; *People v. Pacheco*, 29 Cal. 210, 213 (1865); *People v. County Judge*, 40 Cal. 479, 480 (1871); *People v. Brophy*, 49 Cal.App.2d 15, 34-36, 120 P.2d 946 (1942); *People of the State of New York v. Ingersoll*, 58 N.Y. 1,13-17 (1874).

That they will be enforced, the California trial courts have made very clear, and petitioners' exhaustive attempts to secure relief in the appellate courts have fallen upon deaf ears. The very denials of appellate assistance are cited by the Attorney General as affirmative approval of his activities as California's inspector general of religion and his grotesque crusade against the Worldwide Church of God.[41]

The Court, then, is the last barrier to this ultimate invasion of first amendment sanctity. If it declines to hear the matter, this barrier will be sundered — and the "impenetrable wall" between church and state along with it.

These amici urge that such a consequence is unthinkable.

Conclusion

In a letter to the California Supreme Court, dated 3 July 1979, special counsel for the National Council of Churches observed that the subject action by California's Attorney General constituted "the most sustained and destructive assault upon religion" which that organization had yet witnessed.[42] These amici share this conclusion and urge that the Court would, upon examination, surely agree. They also, however, see that what is taking place in California is but a repetition of what has gone before, again and again. To generations which have grown up within the protective

[41]The Attorney General has previously suggested that denials of petitions for a writ of certiorari constitute the Court's approval. Supplemental Memorandum of Points and Authorities in Opposition to Motion for Injunction Pending Appeal at 1-2, dated 16 November 1979 and filed by the Attorney General in *Worldwide Church of God, Inc. v. State of California*, Case No. CV 79-0183 LEW (TX) (United States District Court, Central District of California); App. at 70; Notice of Motion and Motion for Order Holding Specified Defendants in Contempt of Discovery Orders of this Court and for Sanctions; Memorandum of Points and Authorities and Declaration of Lauren R. Brainard in Support Thereof, at 7 and 12-13, dated 8 February 1980 and filed in the subject case; App. at 71-72.

[42]Letter of Rosen, Remcho & Henderson at 2, App. at 73-75.

embrace of the Federal Constitution and its first great amendment, this spectacle might seem novel, but the long light of history reveals it to be merely another chapter in the endless effort of the State to subjugate and dominate men's beliefs.

In an age which has witnessed increasing government intrusion into every corner of private and personal activity, an age which, indeed, bears increasing resemblance to those which preceded the adoption of the Constitution and whose excesses gave rise to its historic strictures, it is not, perhaps, surprising that this floodtide of pervasive government should now threaten to engulf the instrumentalities of the fundamental freedom, religion itself. Only the Court can stem the advance. Otherwise, as Georges Santayana said of those who ignore the lessons of history, we shall be condemned to repeat these lessons.

Madison, in his historic "Memorial and Remonstrance," observed that "the free men of America did not wait until usurped power had strengthed itself by exercise and entangled the question in precedents."[43] Nor, amici urge, should the Court.

Respectfully submitted,

FRED OKRAND,
Attorney for Amici Curiae.
LEE BOOTHBY,
MARK TERRY,
CARL HORN, III,
JEREMIAH S. GUTMAN,
Of Counsel

[43]James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶3 in II *The Writings of James Madison* 183, 185 (G. Hunt ed. 1910).

APPENDIX.

STATE'S OPPOSITION TO DEMURRER
TO FIRST AMENDED COMPLAINT
(Dated June 28, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
For the County of Los Angeles
Case No. C 267607

The People of the State of California, ex rel., ALVIN EARL TIMMONS et al.,

Plaintiffs,

vs.

Worldwide Church of God, Inc., a California Corporation, et al.,

Defendants.

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[10] . . .

III

THE ATTORNEY GENERAL HAS WELL SETTLED COMMON LAW SUPERVISORY POWER OVER CHARITIES AND THE POWERS CONFERRED BY CORPORATIONS CODE SECTION 9505 ARE MERELY IN ADDITION THERETO

A. *The Attorney General Has Extensive Common Law Supervisory Powers Over Charities*

The Attorney General has well settled common law supervisory power over charities, and the powers conferred by Corporation Code Section 9505 are merely in addition thereto.

The Attorney General has clear common law supervisory powers over charities.

State's Opposition to Demurrer to First Amended Complaint

[19] . . .

The state seeks to remove individual defendants . . . who may be found to have committed fraud, from holding any office or employment in any of the subject . . . corporations, under the well-settled [20] equitable principal that the court may remove trustees who are guilty of breaching their trust. . . .

[21] . . .

Thus, this court has the equitable jurisdiction to remove charitable officers and directors in the same manner as charitable trustees, and that jurisdiction is derived from trust law principles rather than the Corporations Code.

EXCERPT FROM A HEARING ON SEVERAL PRELIMINARY MOTIONS

Reporters' Daily Transcript
Wednesday, January 10, 1979

* * * *

[7] . . .

Mr. Chodos: Because of the nature of the church, as a charitable trust, the relationship of the court to the church is unique.

Every other party who comes before the court has some claim to its own property, and has some right to resist intervention by the court. But *for 700 years, Your Honor, it has been the law in England and America* [8] *that charitable funds are public funds. They are perpetually in the custody of the court. The court is the ultimate custodian of all church funds, just as the Attorney General has always been charged with the power and the duty to investigate allegations of misuse or even suspicions of misuse.*

STATE'S BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

(Undated, Filed in October Term, 1978)

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1978
No. 78-1720

Worldwide Church of God, Inc., et al.,

Petitioners,

vs.

The State of California,

Respondent.

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[16] . . . .

II

Pursuant to Ancient and Settled Legal Principles Religious Organizations Hold Their Assets in Trust for Their Religious Purposes Which Are Also Charitable Purposes, and the State Attorneys General Are Charged With The Responsibility of Enforcing and Supervising Charitable Trusts

The courts of California have always held without exception that the secular affairs of church corporations are subject to supervision by the Attorney General and the courts. (*In re Metropolitan Baptist Church of Richmond, Inc.* (1975) 48 Cal.App.3d 850; *Wheelock v. First Presbyterian Church* (1897) 119 Cal. 477.) In general throughout the United States religious purposes are regarded as charitable and trusts for religious purposes are enforced as charitable trusts. (See IV Scott on Trusts (3d ed.) § 371, p. 2880.)

The state attorneys general are charged with such duties of enforcement and supervision because the fulfillment of the purposes of charitable, including religious, organizations is thought to be of general benefit to society as a whole. In that sense, such entities are trustees of their assets for public benefit and hold such assets in trust for the religious or charitable purposes set forth in their governing documents. (*Pacific Home v. County of Los Angeles* (1951) 41 Cal.2d [17] 844, at 851-852; *In re Metropolitan Baptist Church of Richmond, Inc., supra*, at 857.) Any diversion of such funds is a breach of trust. (*In re Metropolitan Baptist Church of Richmond, supra*, at 857; *Holt v. College of Osteopathic Physicians & Surgeons* (1964) 61 Cal.2d 750, at 759-760.) In California and in many other states the attorney general is the only party other than corporate directors or trustees (who in this case are the very persons accused of wrongdoing) who has standing to enforce a charitable trust. (*Holt v. College of Osteopathic Physicians & Surgeons, supra*, at 755-757; IV Scott on Trusts (3d ed.) § 391, p. 3006.) While the public as a whole is the beneficiary of all charitable trusts, members of the public (including in this case members of the Worldwide Church of God) have no clear authority to bring court actions to enforce a charitable trust. . . .

[19] . . . .

The supervision of charity by state attorneys general goes back far longer than even 200 years. The attorneys general and chancery courts of England had such supervisory powers prior even to the enactment of the English Statute of Charitable Uses in 1601. (Stats. 43 Elizabeth I, c. 4; IV Scott on Trusts (3d ed.) § 368.1, p. 2858, § 391, p. 3002.)

DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS AND PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT; REQUEST TO TAKE JUDICIAL NOTICE

(Dated 20 August 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
For the County of Los Angeles
Case No. C 276 767

FRED G. LOPEZ, et al.,

Plaintiffs,

vs.

The State of California, et al.,

Defendants.

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[4] . . .

Corporations Code section 9505 is not a codification of all of the Attorney General's investigatory and supervisory powers with regard to all charitable religious organizations; section 9505 is in the Corporations Code and hence it deals only with nonprofit corporations. This is not to say, however, that plaintiffs' hypothetical unincorporated religious organization, or a corporation sole, would be subject to any lesser degree of scrutiny under the law than religious nonprofit corporations. In fact, of course, such an unincorporated religious organization and a corporation sole are subject to the Attorney General's common law powers of [5] investigation and supervision over their secular affairs. In addition, the corporation sole is subject to state inquiry into its secular financial affairs via Corporations Code section 10009. There is no reason to believe that a court, upon

application of the Attorney General, could or would probe any less deeply into the secular financial affairs of a corporation sole or an unincorporated religious organization than can the Attorney General under Corporations Code section 9505.

DATED: August 20, 1979

GEORGE DEUKMEJIAN,
Attorney General
JAMES M. CORDI,
LAUREN R. BRAINARD,
WILLIAM S. ABBEY,
Deputy Attorneys General

By /s/ WILLIAM S. ABBEY
Deputy Attorney General

Attorneys for Defendants
George Deukmejian, Evelle J. Younger, Lawrence R. Tapper and the State of California

Cal. Corp. Code § 9505 (1979)

§9505. *Supervision of Attorney General Where Property Held in Trust.*—A non-profit corporation which holds property subject to any public or charitable trust is subject at all times to examination by the Attorney General, on behalf of the State, to ascertain the condition of its affairs and to what extent, if at all, it may fail to comply with trusts which it has assumed or may depart from the general purposes for which it is formed. In case of any such failure or departure the Attorney General shall institute, in the name of the State, the proceedings necessary to correct the noncompliance or departure. Leg.H. 1947 ch. 1038.

Cal. Nonprofit Relig. Corp. Law § 9230 (1980) (effective Jan. 1, 1980)

§ 9230. Purposes: Protection of membership lists: Actions (a) Upon reasonable grounds to believe that the following condition or conditions have occurred or do exist, the Attorney General may, at reasonable times, examine a corporation to determine whether:

(1) The corporation fails to qualify as a religious corporation under this part; or

(2) There is or has been any fraudulent activity in connection with the corporation's property; or

(3) Any corporate property is or has been improperly diverted for the personal benefit of any person; or

(4) Property solicited and received from the general public, based on a representation that it would be used for a limited purpose other than general support of the corporation's religious activities, has been improperly used in a manner inconsistent with the stated purpose for which the property was solicited; or

(5) There has been a substantial diversion of corporate assets from stated corporate purposes.

(b) Such examination shall respect privileges enumerated in Division 8 (commencing with Section 900) of the Evidence Code and shall protect the confidential nature of membership lists by using such lists only in connection with the examination and any subsequent court proceeding. In addition, such examination shall not unnecessarily interfere with normal operations and religious observances of the corporation.

(c) The Attorney General may institute an action in the name of the state to enforce the right of examination set forth in subdivision (a).

(d) For reasonable cause, the Attorney General may institute an action in the name of the state:

(1) To establish that the corporation fails to qualify as a religious corporation under this part, and if a court so finds it shall enter an order that the corporation shall no longer operate as a religious corporation under this part.

(2) To correct any wrongful activity which has taken place in connection with or as a result of any condition or conditions set forth in paragraph (2), (3), (4) or (5) of subdivision (a).

Second Amended Complaint (Filed July 30, 1979)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 267-607

[TITLE OMITTED]

AS A FIRST CAUSE OF ACTION FOR ACCOUNTING, PLAINTIFF ALLEGES:

1. George Deukmejian is the duly constituted Attorney General of the State of California, and as such is charged with the supervision of all charitable organizations within this state and with the supervision of trustees and fiduciaries who hold or control property in trust for charitable and eleemosynary purposes. This action was originally brought by and on behalf of the People of the State of California on the relation of individuals who had been granted leave to sue by the Attorney General. Its purpose is to correct the abuse of charitable trusts. The six individually designated relators have since withdrawn, and sole responsibility for the action now rests with the Attorney General.

2. Defendant Worldwide Church of God, Inc. (hereinafter the Church) is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Church was organized exclusively for charitable and religious purposes, and all of its assets are dedicated irrevocably to those purposes

such as are set forth in its articles of incorporation a copy of which is attached hereto and incorporated herein as Exhibit 1. At all times since its incorporation in 1934 it has been exempted from taxation by the State of California under Revenue and Taxation Code Section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

3. Defendant Ambassador College, Inc. (hereinafter the College), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The College was organized exclusively for educational (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes such as are set forth in its articles of incorporation, a copy of which is attached hereto and incorporated herein as Exhibit 2. At all times since its incorporation in April 1951 it has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

4. Defendant Ambassador International Cultural Foundation, Inc. (hereinafter Foundation), is a California corporation created and existing under the California general nonprofit corporation law. Its principal place of business is in the County of Los Angeles, California. The Foundation was organized exclusively for cultural (charitable) purposes, and all of its assets are dedicated irrevocably to those purposes, such as are set forth in its articles of incorporation, a copy of which is attached hereto and

incorporated herein as Exhibit 3. At all times since its incorporation in March 1975 the Foundation has been exempted from taxation by the State of California under Revenue and Taxation Code section 23701(d), and what is now Article XIII, section 4(b) of the California Constitution.

5. By reason of the exemption from tax of the property of the Church and the College and the Foundation, as above alleged; and also by reason of the fact that all donations and contributions to the Church, the College and the Foundation have been deductible from income by the donors and contributors for purposes of computing their federal and state income taxes; plaintiff is informed and believes, and therefore alleges, that the Church, the College and the Foundation have enjoyed substantial public subsidies amounting over the last ten years to more than $150,000,000.

6. Defendants Stanley R. Rader, Herbert W. Armstrong, Ralph Helge, Henry Cornwall, Osamu Gotoh, Robert Kuhn, Raymond L. Wright, and Does 1 through 50 are and at all relevant times have been either officers, directors, or full-time employees of one or more of the above-named charitable entities (hereinafter referred to collectively as the Church, the College and the Foundation) or one or more of the following named for-profit defendants, or both. All of the acts herein complained of have been done with their knowledge and complicity, and under their supervision. In addition, each individual defendant is legally responsible for the act and omissions of his co-trustees.

7. Plaintiff is informed and believes, and on that basis alleges, that defendants Worldwide Advertising, Inc. and Gateway Publishing, Inc. are California corporations; that Does 51 through 100 are corporations, partnerships or other business entities; that Environmental Plastics, Inc. is a Texas corporation qualified to do business in California; that Rader, Cornwall, Kessler and Palazzo is an accounting firm formed either as a California professional corporation or a partnership; that Mid-Atlantic Leasing is a corporation or partnership; that Excelsior Leasing is a Pennsylvania corporation qualified to do business in California; that the above are hereinafter referred to collectively as the for-profit defendants. Plaintiff is informed and believes, and on that basis alleges, that each of the for-profit defendants is owned or controlled by one or more of the officers or directors of the Church, the College or the Foundation, including particularly the defendant Stanley R. Rader; that funds and property contributed to the charitable entities are freely transferred among them and the for-profit defendants; that financial and business records of the charitable entities have been and continue to be in the custody and possession of the for-profit defendants; and that the unity of record ownership and actual control among the charitable entities and the for-profit defendants, and the course of dealing between them, has been for many years and is now such that for all purposes of this accounting, it would be unjust and inequitable to recognize any separate existence among them at all. The exact status and constitution of the for-profit defendants, and their precise relationship with the charitable entities, are matters not known to plaintiff at this time, but are peculiarly within the knowledge of the defendants; and plaintiff will ask leave of the

Court to amend this Complaint to show their true status and constitution, and the exact nature of their relations with the charitable entities when the same have been ascertained.

8. The true names and capacities of defendants Doe (whether individual, corporate, associate or otherwise) and the true nature of their relationship with the other defendants, is presently unknown to the plaintiff, but is peculiarly within the knowledge of the individual named defendants. Plaintiff will ask leave of the Court to amend this complaint to show the true names and capacities of the defendants Doe, and the true name of their relationship, when the same have been ascertained.

9. Defendants Herbert W. Armstrong and Stanley R. Rader are and all times pertinent to this Complaint have been in full and complete control of the Church, the College, the Foundation, and all of their affairs. Herbert W. Armstrong is and has been Pastor General of the Church ever since its formation, and has been an officer and director of the College and Foundation as well as the Church at all times since their formation. Defendant Stanley R. Rader has acted as general counsel and chief financial adviser of the three entities for the past fifteen years, and for the past four years has acted and is presently acting in at least the following capacities: as director, executive vice-president, executive director, vice-president for financial affairs, secretary-treasurer and general counsel.

10. The Church, the College and the Foundation, as well as the individual named defendants (including Does 1-50), hold and are responsible for the assets of the three char-

itable entities, as trustees, subject to supervision by the Attorney General and ultimately by this court. The ultimate beneficiary in each instance is the public which benefits generally from all charitable endeavors. None of the defendants has or may legally have any proprietary interest in the assets and properties of the Church, the College or the Foundation, nor in their books and records.

11. The Church, the College, the Foundation and the individual named defendants as their officers and directors are required by law to account to the public and this court for all funds received, expended, or held by the three entities. Notwithstanding this duty to account, and repeated requests by plaintiff and members of the Church, these defendants have failed and refused, and still fail and refuse, to make any such accounting at all.

12. The need for an accounting by defendants in this case is particularly acute for each of the following reasons:

(a) Plaintiff is informed and believes, and on that basis alleges, that for a period exceeding ten years the individual and for-profit defendants (including Does 1-100), acting in concert with and under the direction of defendants Armstrong and Rader, have been and are siphoning off and diverting to their own use and benefit assets and properties of the Church, the College and the Foundation, on a massive scale increasing in the last several years to millions of dollars per year, and causing substantial fiscal deficits in their operation.

(b) Although much of the funding for the Church, the College and the Foundation is generated through contributions and other payments and tax subsidies

provided by the public as a whole, a major source of funds for the Church has come from tithing of its members. As Pastor General of the Worldwide Church of God, and as the self-proclaimed Ambassador of God on earth, Herbert W. Armstrong has directed all members of the Church to contribute the first ten percent (10%) of their gross income. Failure to do so, according to Armstrong's published disseminations to the members, is ". . . STEALING from GOD . . . and is SIN, which will cost you your SALVATION!" By reason of such representations and exhortations, a special fiduciary relationship has been created in which Mr. Armstrong, Mr. Rader and the other individual defendants owe the highest duty of accountability, not merely to the general public which is interested in preventing fraud, but also the members and former members who have not only given their money but have also placed their trust in the defendants to use it strictly for God's Work.

(c) In the solicitation of funds, defendant Armstrong has not always been candid. From time to time throughout the past ten years the Church has sent out special and urgent requests for contributions to be made at great personal sacrifices to the donors. Attached hereto and incorporated herein as Exhibit 4 is one such request dated March 30, 1970. The letter speaks of a "tight money situation" requiring cutbacks in Church salaries, publications and operating expenses in all departments of the Work"; it states that "God's Work" needs "IMMEDIATE CASH"; and on the suggestion of ". . . Mr. Rader, our legal counsel and financial adviser," members are asked to borrow whatever they can, so long as they do not lower the

income for the "Work" through the rest of the year. The true nature of the alleged fiscal emergency is exemplified by two purchase orders attached hereto and incorporated herein as Exhibit 5. Mr. Armstrong's letter of March 30, 1970, failed to disclose, among other pertinent facts, the purchase for his Pasadena residence of a $6,090.00 crystal candelabra on January 2, 1970, and French porcelain vases for $2.079.00 on March 31, 1970.

(d) In addition to the first 10% tithe (for God), and a second 10% tithe (to provide for the member's expenses at the annual Festivals), there is a third tithe imposed by the Church on its members consisting of ten percent (10%) of their gross income every third year. Throughout the past ten years this contribution has been expressly solicited as a special fund for widows and orphans. A trust has been imposed on these funds which requires that they be used only for such purposes. Plaintiff is informed and believes and thereupon alleges that an accounting has never been rendered of the receipt and disposition of these funds. and that they have been diverted to purposes other than those for which they were solicited and donated.

13. Because the named individual defendants are now, and at all times pertinent to this action have been in full, effective and exclusive control of all the property, assets, records and administrative facilities of the Church, the College and the Foundation; and because they have consistently denied and still presently deny meaningful access to such records by the Attorney General of the State of California. plaintiff has no alternative but to make many of the allegations of this complaint on information and

belief. Plaintiff will ask leave of the Court to amend this complaint in all pertinent respects when the particular facts concerning the actions complained of have been ascertained.

As a Second Cause of Action for Removal of Individual Defendants as Trustees, and for Injunction, Plaintiff Alleges:

14. Paragraphs 1 through 13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Second Cause of Action.

15. Plaintiff is informed and believes and thereupon alleges that defendant Herbert W. Armstrong is 86 years of age; that he has suffered a heart attack; that he no longer resides in California; and that he is not in daily control of the operations of the Church, the College or the Foundation. The exact nature and extent of his involvement and participation in the diversion of charitable funds hereinabove alleged, either at the present time or in the past, is currently unknown to plaintiff, but is peculiarly within the knowledge of the defendant Armstrong and the other defendants. Plaintiff will ask leave to amend his complaint to show the true facts when the same have been ascertained.

16. Plaintiff is further informed and believes, and thereupon alleges, that for all practical purposes, the financial affairs of the Church, the College and Foundation are now and have for some time been controlled by the defendants Stanley R. Rader, Osamu Gotoh, Ralph J. Helge, Robert Kuhn, Raymond L. Wright, and Henry Cornwall.

17. In addition to his official capacities described above in paragraph 9, Rader has claimed additional power and

authority since January 4, 1979 by reason of a directive purportedly issued on that day by the defendant Armstrong, a copy of which is attached herein and incorporated herein as Exhibit 6.

18. Since this action was filed in January 1979, defendants Rader and Helge have done everything within their power to deny plaintiff access, not only to the books and records of the Church, College and Foundation, but to individuals with knowledge of the operation and financial affairs of said charitable entities.

19. Plaintiff has been endeavoring since January 31, 1979, when this court first so ordered, to examine Rader under oath in deposition concerning his fiduciary relationship to the Church, College and Foundation, and the manner in which he has carried out his responsibilities. Rader failed and refused to appear until further ordered to do so on April 3 and 4, at which time he refused to answer proper questions, and ultimately announced unilaterally that he was leaving the deposition and would not participate any further therein. A copy of the transcript of Rader's deposition is being lodged with this court in connection with plaintiff's Motion to Compel Discovery, and is hereby incorporated by reference and made a part of this complaint.

20. By reason of each and all of their acts and omissions hereinabove related, the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge have failed and refused to comply with the trust which they have assumed; each of them has departed and caused the Church, College and Foundation to depart from the charitable purposes he

and they were bound to serve; and each of said defendants should be removed from all responsibility in connection with the Church, College and Foundation.

21. Further, plaintiff is informed and believes, and therefore alleges that the said defendants have caused the Church, College and Foundation to enter into various purported contracts of employment and other contracts with each of the said trustees, providing for compensation and reimbursement of expenses. Plaintiff alleges that all of said contracts were entered into by the Church, College and Foundation without sufficient consideration and under undue influence, and without proper corporate authority: and alleges that each of said contracts should be cancelled and determined to be null and void. A copy of the Employment Contract of Stanley R. Rader dated July 30, 1976 is attached hereto, marked Exhibit 7, and is incorporated herein by this reference.

22. Plaintiff further alleges that each of the defendants Rader, Gotoh, Kuhn, Wright, Cornwall and Helge should be perpetually enjoined and restrained from serving as officers or directors, or any other capacity, with respect to the Church, College or Foundation or any other California charitable or trust or organization.

As a Third Cause of Action for Orders Requiring Compliance by the Church, College and Foundation With California Law Pertaining to Nonprofit Corporations Organized for Charitable Purposes, or for Other Appropriate Relief, Plaintiff Alleges:

23. Paragraphs 1 through 13 of the First Cause of Action, and paragraphs 15 through 22 of the Second Cause

of Action, are hereby incorporated by reference into and hereby made a part of this Third Cause of Action.

24. By virtue of the facts hereinabove alleged, the defendant charitable entities have claimed the benefits of incorporation as nonprofit corporations organized for charitable purposes under the laws of the State of California which benefits include among others the substantial tax subsidies and exemptions hereinabove referred to; but the said charitable entities have failed in numerous respects to comply their obligations under said laws, as follows:

(a) Claiming that their organization is "hierarchical," the charitable entities have never been subject to the governance of any board of directors, board of trustees or other independent body, authorized and empowered to supervise and preserve charitable funds collected and held by them as required by law;

(b) Notwithstanding that the bylaws adopted by the charitable entities called for a vote of the members on numerous matters of importance, including amendment to the articles and bylaws, disfellowshipment of members and other matters, no member of said charitable entities has ever voted or been permitted or requested to vote on any matter and no vote of the members has ever been held on any subject. In this connection, plaintiff is informed and believes, and thereupon alleges, that although statements were filed with the Secretary of State reflecting a purported vote of the membership on certain amendments to articles of incorporation of the defendant Church, no such vote and no such election was ever held, as the defendants herein are well aware.

(c) The defendants have taken the position that their bylaws may be altered or entirely disregarded whenever it suits their purposes, since said bylaws are "viewed only as guidelines, which are subject to spiritual interpretations (by defendants) and are subordinate to the higher law of God." A copy of the Declaration of defendant Helgè, dated January 11, 1979 and filed with this court on or about January 12, 1979, is attached hereto as Exhibit 8 and is hereby incorporated by reference and made a part of this complaint.

(d) Claiming that all decisions of the defendants Armstrong and Rader are "religious" or "spiritual," including all decisions affecting the disposition of charitable trust funds collected and held by the Church, College and Foundation, defendants have taken the position that all of their financial decisions and expenditures, including the disposition of funds for their personal use and benefit, is protected and exempted from review or scrutiny by anyone, including this court, by virtue of the First Amendment; and have thereby claimed and continue to claim that they are entitled to dispose of charitable funds as they please.

25. The defendants Church, College and Foundation should be required by this court to comply with their obligations under the laws of the State of California pertaining to nonprofit corporations organized for charitable purposes in all respects, including among others the following: (a) The Church, College and Foundation should be required to select a board of directors, board of trustees, or other board authorized and empowered to oversee and supervise its financial affairs (as distinguished from its

ecclesiastical or spiritual affairs), in such manner as to provide reasonable assurance that the charitable trust funds collected and held by such charitable entities will be applied solely to the charitable uses to which they were donated, and will not be diverted or misapplied for the personal benefit of any individual, or for any other improper purposes; (b) The Church. College and Foundation should be required to take such steps as may be necessary or appropriate to keep and maintain proper records of their financial and business transactions, and to prepare and cause to be rendered periodic accountings of their financial and business affairs as required by law; (c) The Church, College and the Foundation should be required to take such steps as may be necessary or appropriate to prevent the dissipation of charitable trust funds in the future, and to recover such charitable trust funds as have previously been allowed by them to be dissipated or diverted by improper purposes.

26. If and to the extent the Church, College and Foundation cannot be made to comply with their legal obligations in exchange for obtaining the benefits of their status as charitable California corporations, the court should make such other orders and grant such other relief as may be necessary or appropriate under the circumstances to preserve the charitable funds which have been accumulated by them, and which are presently entrusted to their care and custody.

As a Fourth Cause of Action for Receiver, Plaintiff Alleges:

27. Paragraphs 1 through 13 of the First Cause of Action and Paragraphs 15 through 22 of the Second Cause

of Action and Paragraphs 24 through 26 of the Third Cause of Action, are hereby incorporated by reference into and made a part of this Fourth Cause of Action.

28. Based on limited and sporadic statements issued by defendants to the membership of the charitable entities, plaintiff is informed and believes, and on that basis alleges, that they receive approximately $70 million per year in contributions, and that they have a net worth of approximately $80 million. Most of their net worth is held in the form of real estate.

29. Plaintiff is informed and believes, and on that basis alleges, that between January 1, 1975 and the present date, the charitable entities have spent and continue to spend at least $ million more each year than they receive in contributions and, for that reason, have been forced to liquidate some of their holdings in order to defray their current expenditures. All the excess of expenditures over receipts is attributable to the individual defendants' pilfering of the revenues of the charitable entities and their misappropriation of charitable assets to their own personal use and benefit, which pilfering and misappropriation continues to this very day on a massive scale. So long as the individual named defendants remain in full, effective and exclusive control of the business affairs of the charitable entities, they alone will continue in the future, as they have in the past, to determine the nature and extent of all their expenditures.

30. Plaintiff is informed and believes, and on that basis alleges that during the last six months, as part of their program of misappropriating the assets of the charitable

entities to their own use and in order to facilitate said misappropriation, the individual defendants have been liquidating the properties of the charitable entities on a massive scale; and that in Southern California alone, over twenty parcels of property belonging to one or more charitable entities have been sold in the last year, many of them at prices well below their market value.

31. Plaintiff is further informed and believes, and on that basis alleges that one of the largest properties of the College is a 1600-acre parcel in Big Sandy, Texas, which is worth substantially in excess of $10.6 million; yet the individual defendants have been attempting to sell the aforementioned parcel to a third party for approximately $10.6 million; and these defendants have attempted to conceal the true worth of the Big Sandy property, and have instead published false statements, known by them to be false, to the effect that the property aforesaid is worth only about $8 million. All these statements and activities are part of their effort to convert the assets of one or more of the charitable entities into a form in which they may be more easily appropriated to the personal use and benefit of the individual defendants. Further, plaintiff is informed and believes that the defendants have established no procedures or safeguards to ensure that the proceeds of sale of the Big Sandy property, which belong to the College and which ought to be used exclusively for charitable and educational purposes, will be applied to that charitable use; but instead, defendants have announced publicly their intention to "get out of the college business," and to divert the proceeds of said sale to the Church and the Foundation, and to uses other than those for which they are entrusted.

32. Plaintiff is further informed and believes, and thereupon alleges, that the individual named defendants, in an effort to frustrate discovery of their wrongdoing and to obscure the facts, have caused and are causing the written records of their dealings to be removed from the Pasadena offices of the defendant corporations, and to be shredded and destroyed: and that if said removal and destruction are allowed to continue, it may never be possible to develop a true and complete accounting of the finances of the charitable entities during the time period complained of.

33. Since this action was commenced on January 2, 1979, and after a receiver was appointed herein, the individual defendants have pursued a course of conduct designed to divert donations, funds and assets of the charitable entities to themselves at Tucson, Arizona and elsewhere; and thereafter to apply said funds for their personal use and benefit in various ways, including the appointment of numerous firms of attorneys to represent their personal interest while ostensively acting as counsel for the charitable entities. In this regard, the individual defendants have purported to effect an amendment to the bylaws since the commencement of this action, granting them alleged indemnification for their legal expenses, not only in connection with the instant action and any other civil action which has been instituted by them or against them in the state and federal courts, but also for any expenses they may incur in defending against criminal charges arising out of crims or alleged crimes committed by them against the charitable entities (as set forth at pages 11 and 12 of the purported bylaws attached to the Declaration of Helge, Exhibit 8 to this complaint). Plaintiff is

further informed and believes, and thereupon alleges that the defendants have already paid or incurred legal expenses in connection with the present action and related litigation of nearly $1 million, all of which they have paid or intend to pay out of charitable funds properly the property of the charitable entitities herein.

34. The appointment of receiver pendente lite for the charitable entities is necessary forthwith to prevent the continued misappropriation of charitable funds and assets to the personal use and benefit of the individual defendants; to halt the imminent and massive selling-off of valuable properties at prices well below their market value; and to prevent the further destruction of financial and business records of the charitable entities and to conduct an independent investigation of claims which the charitable entities may have against the individual named defendants and others, and thereafter to file and pursue such suits and actions on behalf of the charitable entities as may be appropriate.

As a Fifth Cause of Action for Injunctive Relief Plaintiff Alleges:

35. Paragraphs 1 through 13 of the First Cause of Action, 15 through 22 of the Second Cause of Action, 24 through 26 of the Third Cause of Action, and 28 through 33 of the Fourth Cause of Action are hereby incorporated into and made a part of this Fifth Cause of Action.

36. The Receiver will require access to the books and records, and to the administrative facilities, of the charitable entities in order to discharge his duties, and in order to protect and preserve their assets pendente lite; but the

individual named defendants threaten to deny such access to any person other than themselves, and have demonstrated an intention to remove and destroy said books, records, and facilities, rather than to let any other person see them; and unless enjoined the restrained from doing so by this Court, they will do so, and will not yield up the said assets and records to the receiver.

37. The individual named defendants are engaged in an on-going program of liquidation of charitable assets, and have already entered into agreements to sell many of said properties at prices well below their market value; and unless they and those with whom they deal are enjoined and restrained from doing so by this Court, they will sell, transfer, mortgage, and encumber said properties without providing any safeguards for their preservation and use for the charitable purposes impressed on such assets.

As a Sixth Cause of Action for Accounting Against Defendant Rader, Cornwall, Kessler and Palazzo, Plaintiff Alleges:

37. Paragraphs 1-13 of the First Cause of Action are incorporated by reference into and hereby made a part of this Sixth Cause of Action.

38. Plaintiff is informed and believes and on that basis alleges, that at all times relevant to this complaint, defendants Rader and Cornwall held the beneficial ownership of a majority of, and exercised actual control over, defendant Rader, Cornwall, Kessler and Palazzo, which, until recently was known as Rader, Cornwall and Kessler.

39. Plaintiff is informed and believes and upon that basis alleges that at all times relevant to this complaint

defendant Rader, Cornwall, Kessler and Palazzo acted as the outside accountants for the charitable entities; and in such capacity produced certified financial statements for Worldwide Church of God and Ambassador College, in which they rendered opinions as certified public accountants that such financial statements presented fairly the financial positions of those corporations. Plaintiff is informed and believes and on that basis alleges that as accountants for the charitable entities, defendant Rader, Cornwall, Kessler and Palazzo held a fiduciary position of great trust and confidence vis à vis such charitable entities in the course of which Rader, Cornwall, Kessler and Palazzo rendered financial advice to the management of such charitable entities. In addition plaintiff is informed and believes and on that basis alleges that at all times relevant to this complaint Rader was intimately involved with the management of the charitable entities as personal financial advisor to defendant Herbert W. Armstrong and as attorney for the charitable entities. As a consequence of its assumption of such fiduciary position defendant Rader, Cornwall, Kessler and Palazzo and its partners or shareholders were bound to avoid transactions in which their personal financial interests would conflict with those of the charitable entities.

40. Plaintiff is informed and believes and on that basis alleges that defendants Rader and Cornwall used their positions of trust and confidence with the charitable entities to divert assets of those entities to their benefit, in an amount unknown to plaintiff, by devising, recommending and implementing unfair and fraudulent business transactions between the charitable entities and themselves personally, or between the charitable entities and various of the for-profit defendants in which either or both of them

had ownership interests, or from which they otherwise derived financial benefit, which transactions resulted in personal profit to Rader and/or Cornwall. Plaintiff is informed and believes and on that basis alleges that Rader and Cornwall accomplished the said diversions of charitable assets while acting or purporting to act for and on behalf of defendant Rader, Cornwall, Kessler and Palazzo as partners and/or members thereof.

41. The full nature and extent of the dealings between defendant Rader, Cornwall, Kessler and Palazzo and the charitable entities are not now known to plaintiff, but are peculiarly within the knowledge of defendants. Plaintiff will ask leave of court to amend this complaint to show the exact nature and extent of such dealings when the same have been ascertained.

42. Rader, Cornwall, Kessler and Palazzo are legally required to account to plaintiff for all of the said dealings and transactions between itself and/or its partners, and the charitable entities, and may be surcharged and held liable for any breaches of trust or diversions of charitable assets resulting from such dealings or transactions.

Wherefore Plaintiff Prays:

1. For an order requiring defendants to make a full and complete accounting to this Court of the affairs of the defendant charitable entities from January 1, 1975 through the date of said accounting; and for a further accounting of the third tithe, and of all transactions between any of the defendant charitable entities and any of the individual defendants or the defendant for-profit entities, from January 1, 1970 through the date of said accounting;

2. For an order removing the defendants Rader, Gotoh, Kuhn, Wright, Cornwall, and Helge from holding any office or employment in or under the defendant charitable entities, and cancelling and nullifying any contracts of employment which may have heretofore been entered between them and said entities and further enjoining and restraining said defendants from holding any office of employment under the said charitable entities in the future, or in or under any California charitable corporation trust or charitable organization;

3. For an order directing the defendants Worldwide Church of God, Ambassador College, Inc., and Ambassador International Cultural Foundation to comply with their obligations under the laws of the State of California pertaining to nonprofit organizations organized for charitable purposes; and in the event of their failure so to comply, for such additional equitable relief as may be necessary, appropriate or requisite in the premises to secure the preservation and proper application of the charitable funds presently in their possession and under their control;

4. For an order appointing a receiver pendente lite to take possession, until further order of this Court, of all the property of the defendant charitable entities aforesaid, and of their books and records, and empowering him to take such actions as he deems, in the reasonable exercise of his discretion, appropriate to recover property and assets wrongfully taken from them, and to prevent the further dissipation of charitable property and assets, said power to include without limitation the power to bring lawsuits in the name of the charitable entities, and to retain independent accountants, lawyers, and other professional assistants to assist him in the prosecution of such lawsuits;

5. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concert with them, from interfering in any way with the actions of said receiver, and requiring them furthermore to yield up to said receiver all the books, records, and administrative facilities of said charitable entities;

6. For an injunction restraining the named individual defendants, their agents, employees, and all persons acting in concern with them, from selling or mortgaging, or asserting ownership in any other way, over the property or assets of any of the charitable entities, except as the court-appointed receiver may allow;

7. For costs of suit herein;

8. For such other and different or further relief as to this Court may seem just and proper.

DATED: .....

GEORGE DEUKMEJIAN, *Attorney General*
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General

By .....
JAMES M. CORDI
Deputy Attorney General

Attorneys for Plaintiff.

Excerpt From Hearing to Confirm Receiver's Appointment (emphasis added)

REPORTER'S DAILY TRANSCRIPT

Friday, January 12, 1979

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[360] . . .

The Court: Mr. Chodos.

Mr. Chodos: Thank you. Your Honor. Your Honor. I have to compliment Mr. Browne on the display of [361] virtuosity. He has spoken for a little over 30 minutes, and every single thing he said is wrong.

He started with the premise that we have a heavy burden of proof. And I suggest to Your Honor that that may be true in an ordinary receivership action between private parties, where private interests are at stake, but where charitable trusts are concerned, it is the opposite which is true.

Once the slightest showing sufficient even to raise the court's eyebrow has been made before the court to suggest that there may perhaps be improprieties in the administration of a charitable trust, the presumptions all operate the other way, and the trustee has the burden of coming forward and showing that everything has been fair and regular, and that burden, Your Honor, has not been carried and no attempt has been made to carry it.

Counsel tells you that a receivership is the most drastic remedy, and that may be where the court attempts to interfere with private rights.

In cases like that, the Fourteenth Amendment and the due process clause of the California Constitution interpose themselves between the court and the private party. But there are no private rights here.

This money is public money. This court is the guardian of it today; it was the guardian of it last week; it was the guardian of it in 1948; and it will continue to be the guardian of this money as long as the charitable trust continues to exist.

[362] And I would suggest to the court that it is no more drastic for the court to replace Mr. Rader as the custodian of this trust with Judge Weisman, than it would be for the court to replace Judge Weisman with someone else. This court has the power to remove and replace trustees of a charitable trust at its pleasure, in order to assure itself that there should never be the slightest question or possibility of dissipation of charitable trust assets.

And the reason for that, Your Honor, is that no one but this court has the power to do that. As Mr. Browne himself has pointed out, and as we have pointed out to you, the people who give this money—not Mr. Kotora, I am not going to speculate whether Mr. Kotora speaks for a hundred thousand members anymore than I am going to speculate whether the people who send me letters and telegrams of congratulations speak for a hundred thousand members. What I do know is that Mr. Armstrong and Mr. Rader and their henchmen, who are part of the palace guard who have been brought here to court to foist off their claims upon you, are the takers, not the givers.

***Ex Parte* Hearing to Appoint a Receiver**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 267 607

THE PEOPLE OF THE STATE OF CALIFORNIA, *ex rel.*,
ALVIN EARL TIMMONS, *et al*,

Plaintiffs,

vs.

WORLDWIDE CHURCH OF GOD, INC.,
a California Corporation, *et al*,

Defendants.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

January 2, 1979

[1] (The following proceedings were had in chambers:)

The Court: This is the matter of The People of the State of California, and others, versus Worldwide Church of God. Case Number C 267607.

Mr. Tapper: Lawrence R. Tapper for the California Attorney General.

Mr. H. Chodos: Hillel Chodos and Raphael Chodos for the Relators.

Mr. Gibson: Hugh John Gibson for the relators.

Judge Weisman: Steven S. Weisman.

The Court: All right. I have had an opportunity to read the Complaint; I have read the memorandum of points and authorities, quickly; I have read the declarations of Mr. Chodos, Mr. Gibson, Mr. Chapman. Mr. Morgan, Mr. Timmons, and Shirley Timmons.

Mr. H. Chodos: Your Honor, I wanted to interrupt just to state for the record, a copy of the proposed pleadings was furnished to you this morning. The original is in my briefcase. It has not yet been filed, but we are prepared to file it and pay the necessary fee at any moment.

It is just that we did not want a public filing before coming to see you. I spoke to the clerk this morning and told him we would talk about that.

The Court: Well, we are going to have to get it filed if I am going to grant you any relief, as I am sure I don't have to tell you, Mr. Chodos.

[2] Mr. H. Chodos: Yes, Your Honor. I just wanted to explain.

The Court: What I have read, obviously, are copies of documents which counsel furnished me. I am concerned about the scope of the relief that is sought.

I am concerned about the ex parte nature of the proceedings, and the rather majestic order which would flow from these proceedings without a hearing. I am not unmindful there are charges that dissipation of the properties may occur, and I am also not unmindful of the one cruncher, if you will, which is the proposed sale of the Big Sandy property on January 4th, or the proposed completion.

I have read the declaration pretty carefully. The rest of the matters, and some of the supporting data, obviously, in the length of time afforded to me, I have barely skimmed

through; some of the financial matters which are referred to in one of the declarations—I guess it is Mr. Chapman's declaration—are matters which I have just glanced at; obviously, I haven't digested those in any form.

I would like to be enlightened, perhaps, about how far my writ runs in the first place. Can I really do anything about a real property transaction which is going to close. apparently, in Texas? I don't have anybody before me, as I understand it. I will have somebody before me if I issue this order in due course. Presumably, Mr. Rader or Mr. Herbert Armstrong or somebody will be served.

Let me hear from the Attorney General or from Mr. Chodos, whoever is carrying the ball here.

[3] Mr. H. Chodos: If I can just make a few observations. First of all, I recognize that any request for an ex parte receiver. without notice, has to be viewed against a strong presumption that it is an emergency measure to be used with great caution.

I would suggest to you, however, that at least insofar as pertains to the Worldwide Church of God, Inc., Ambassador College, Inc.. and Ambassador International Cultural Foundation, Inc.. that the usual principles are not applicable.

All of those corporations are organized and existing under California law, exclusively for charitable, religious and educational purposes.

It is our position that a shorthand way of describing the law applicable to the corporations of that type is that their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court on the application of the Attorney General. In effect, there are no private interests.

The Court is not taking something away from somebody or interferring with anyone's private rights. In effect,

what we are saying is that there are presently trustees who have been allowed to manage the charitable fund on a day-to-day basis.

There is reason to believe, as we have shown you, that they have not done their job in a faithful manner. We believe that essentially those trustees serve at the Court's pleasure, and may be replaced with a more trustworthy [4] trustee.

The Court: I don't have any quarrel with that up to there, and I think you make a prima facie showing that there may be some serious problems in the administration of this trust.

Mr. Chodos: Now, turning to how far the Court's writ runs. I am inclined to believe that the Court's writ does not run to land outside the State of California.

The Court: I learned it only runs halfway across the dining room table, so as my children want to point out to me, let alone past the State line.

So you have got to give me a little jurisdiction and a little power if you want some help.

Mr. Chodos: It does run, however, to all persons within the Court's jurisdiction, and particularly, to charitable trusts which are organizing and existing under the State of California.

In fact, this Court, as I understand it, is the only court that has complete jurisdiction and supervision over the affairs of these three charitable corporations.

Now, it may be that you will appoint a trustee for these funds, Judge Weisman, and that he will then be confronted with the claims of third parties in Texas.

Now, he, after all, will stand only in the shoes of the present trustees. His rights and privileges will be no greater or no less, and he may have to submit to demands

by the people if they are meritorious, or litigate them if they are questionable, or resist them if they are not. But [5] he has to do that in the name of and on behalf of the charitable funds and this Court.

Now, the real problem, therefore, I don't know what can be done if the land has cnaged hands by the time we get to it, we may have to sue to rescind in the Texas courts.

It is my understanding that a receiver has, under that statute, the power to sue and be sued in other actions on behalf of the interest he represents.

The Court: The order which would be drawn appointing him can specifically grant him that power, and he may have it inherently.

Mr. H. Chodos: That is right. Furthermore, I believe that—Well, let me say, what we are asking here—and it may be that the order—the temporary order perhaps should be more limited in scope than the order to show cause. The one thing that is clear to me that you have the power to do is to appoint a receiver for the three charitable corporations. The other corporations we have named are alleged to be fronts, depositories of charitable funds.

We have substantial reason to believe that that is true and that we can prove it. But it may be that the taking control of those entities and the interference with those entities ought to be postponed until after a hearing has been held.

But for the charitable corporations themselves, we have a substantial chance of emmence dissipation in the immediate future. And in the nature of things, we believe [6] that it would be much more costly, and ultimately, therefore, an unnecessary drain on the charitable trusts to put the receiver in the position of having to rescind a consummated transaction when he might be able to avoid an unconsummated transaction.

Now, I will point out to the Court, too, that if the transaction is not consummated, the chances are good of litigating this matter in California. If they are consummated, the chances are good we will have to litigate it in Texas.

My experience with Texas law is that they have a somewhat different view of the applicable principles than the California courts, and it takes a little while getting acclimated to it.

Now, I don't know if I have answered Your Honor's question about the scope of your writ and the extent of your jurisdiction.

The Court: What about the ex parte nature? I read your moving papers, I read your moving declaration, and someone seems to be alarmed at the potential for file shredding or the destruction of documents or records.

Mr. Tapper: Maybe I could dispel that, Judge.

The Court: Go ahead.

Mr. Tapper: I am reminded of the words of Shirley Hufstedler when she was in the Court of Appeal, and it was no more certain as to the plaintiff's rights in terms of their being finally defined as it is here, but there is strong reason to be suspicious, and she said, "What the defendant [7] suggest is that the plaintiff should take a taste to determine whether it is a mushroom or a toadstool." And that is essentially what we are faced with here.

Nobody can tell Your Honor how many pieces of paper are being shredded per minute, per hour, per day.

The Court: If any.

Mr. Tapper: If any. We do believe that they are being shredded. We don't believe that the information that there

is a shredder in his offices is fictional; but by the same token, we haven't seen the shredder.

The Court: There can also be ligitimate uses for them, although maybe we ought to tell the city attorney that.

Go ahead.

Mr. Tapper: I suppose. But the records we are talking about are public records, just as the assets that Hillel, in describing the charitable organizations, are also public assets.

I share the thought that perhaps it will be premature to use these remedies ex parte as to non-charitable entities at this time, but I am very concerned about the Big Sandy transaction. I am very concerned about the evidence that has been presented to us of some fifty—I haven't seen all the deeds—but it is alleged that there have been fifty real estate transactions in a period of five to six months. That works out to ten per month. So if it is just merely on an averaging basis, there is a virtual certainty that there are going to be some more pieces of real estate that are going to change hands, and that, again, is going [8] to be even further litigation trying to recover the property.

The Court: These are pieces which, as I recall it, have stood in the name of one or more of the charitable corporations and being deeded out to individuals.

Mr. Tapper: That is correct. Ambassador College, for example. I believe that the case of People versus Christ's Church of the Golden Rule is practically on all fours.

I think that what has been presented to us is sufficiently strong that we must take immediate action.

A great deal of effort went into bringing this to Your Honor as early as it has been brought to you, and I would urge the Court to favorably consider the relief, at least as to the charitable entities.

Mr. Chodos: May I add just one thing. People versus Christ's Church of the Golden Rule deals—we quoted extensively from it—emphasizes the difficulties of a plaintiff in the position of the Attorney General or the Relators where information has been withheld. It emphasizes the discretion of the court to grant ex parte relief where the circumstances justify it. But, furthermore, and most important, I want to emphasize that the usual impediment to granting ex parte relief does not exist here.

Normally, in a private property situation where you grant ex parte relief, the court is put in a position of attempting to interfere with someone's rights, and to stop people from doing things that they would otherwise do with their own property, and maybe create great havoc to private interests that have not had an opportunity to be [9] heard, and that is the power that should be exercised with great skepticism and great reservation.

In this case, however, there are no private transactions. In other words, if you appoint an ex parte receiver, all that is going to happen is that he is going to take custody of the records and preserve them; take custody of the money and preserve it; take custody of the causes of action and preserve that; and he is going to be prepared to come back into this court, at any time starting tomorrow morning, that you want to make returnable, or that counsel wants to come in here for an ex parte conference, to vacate the order and talk about it.

But in the interim, what I am really trying to emphasize to you is there is no one whose interests can be hurt. Only protection can be granted by an ex parte order, and there is—

The Court: Well, we could hurt some interests, according to the thrust of what you have spelled out. They would

be interests, if the moving papers are accurate, inappropriately acquired. So we are mindful of that.

Does the record reflect that Judge Weisman is here with us, Patty?

The Reporter: Yes, Your Honor.

The Court: It has been urged that this bowl of spiders be put in your custody. Before I get involved in orders or making orders or granting relief, are you willing to become involved in it?

Judge Weisman: Yes, I am.

[10] The Court: As a receiver?

Judge Weisman: Yes, I am.

The Court: And you see no impediment that would prevent you from acting, if you were thrust—

Judge Weisman: The only impediment I know of is my polio, and that won't prevent me—

The Court: You have managed pretty well with that for some time.

I will tell you on the record that I am a little queasy about putting somebody in charge, but I think you have a showing which warrants some relief.

I would like to discuss with counsel the temporary—proposed restraining order, or order to show cause, because I think we might want to chop it up a little bit in line with the suggestions that have been made about limiting the order to the charitable corporations.

I am addressing your attention to the proposed order appointing temporary receiver, temporary restraining order and order to show cause re receiver and injunction.

Mr. H. Chodos: Would you like to have original order just to work on?

The Court: Might as well work from a copy in case we change things. And we are going to want you to file as soon as we get this—

Mr. H. Chodos: I am prepared to do so.

The Court: Let's go through it with you. Let me see your Complaint, because it names the defendants. And I take it you want this order to run, so far as the order [11] to show cause is concerned. against everybody; is that right?

Mr. H. Chodos: Yes, Your Honor.

The Court: In line with the suggestion about limiting to the charitable corporations, I am looking at Paragraph, Sub-B, on Page 2, at Line 17. Would it be necessary, with that thought in mind. to have limiting language at that point?

Mr. H. Chodos: Well, it seems to me, Your Honor, that at the hearing on the order to show cause, after there is notice, the Court has power to extend the injunction to all the defendants, and that the proper time to limit it is when the responsive showing is made.

The Court: All right. In other words, what you are really saying is that the temporary restraining order is the only one which should be limited, the proposed temporary restraining order.

Mr. H. Chodos: That is our position.

The Court: All right. I have read your bond argument. Are you suggesting that despite what is contained on Page 3, at Line 5, that no bond is required at all?

Mr. H. Chodos: No, Your Honor. We believe that no bond—In a receiver action, there are two bonds. One is from the plaintiff—

The Court: You are talking about the receiver's bond?

Mr. H. Chodos: This is the receiver's bond, and I believe Judge Weisman must post a bond.

The Court: All right. What would you suggest that bond ought to be?

[12] Mr. H. Chodos: Well, the only thing I can say is this, Your Honor: There are $80 million of assets, which would be in Judge Weisman's charge. It is my view that you could put $80 million in crumpled $20 bills in Judge Weisman's briefcase and not worry about it.

The Court: Ruin his briefcase.

Mr. H. Chodos: Yes. It would be, in my opinion—I have spoken to a bonding agent who is prepared to provide a bond, within limits, and he tells me the likely premium is one percent of the face amount. The premium, of course, is a charge on the charitable trust.

I believe, under those circumstances, a relatively nominal bond for a temporary period is appropriate. I would say $1,000, or $10,000 whatever Your Honor considers nominal under those circumstances.

The Court: I am still impressed with $10,000 but I am going to make it a $10,000 bond, and that will, of course, be subject to an argument if this matter comes back to me.

Now, we will need to redraw, it seems to me, Paragraph 3, or will we?

I will hear from you about that.

Mr. H. Chodos: I think in view of Your Honor's remark, all that would need to be done is starting with the words "Wilshire Travel" on Line 13, and extending down to the words "in California" on Line 17, that if that passage would be deleted, that this would conform to what you have indicated.

The Court: That sounds like it would be appropriate, and I am physically deleting on the copy those portions which [13] which you suggest be deleted.

What is the soonest you believe you can get these people served?

Mr. H. Chodos: I am hopeful, Your Honor, making an order today, that we could have these people served by noon tomorrow. Most of them, I think, will not be evading service.

The Court: I will make it by January 4th, at 5:00 PM. Give you a little more time. So far as the return date, that is up to Ms. Follings outside.

Let me say this: Somebody is going to have a career as a judicial officer in this. I am not sure that the limitations which are imposed on this department by the workload, which I just looked at for the next calendar, will permit this matter to remain here.

I think you are going to need somebody in the nature of an all-purpose judge to take hold of this. Now, whether Judge Schauer will do that, whether he will want me to refer it ultimately to Judge Weil to be handled as an overflow matter, I am not sure.

I doubt very much, foreseeing what inevitably has to happen in this case, whether it can be comfortably accommodated on the 8th floor, and allow us to get any other work done, unless everybody caves in, agrees or elects a new board, or something remarkable will happen.

I think what I have indicated is what I will sign as soon as the appropriately filed papers are presented to me. And we'll set down your order, appoint Judge Weisman [14] temporarily, pending the return date.

Mr. Tapper: Do you want to pick a date? Pages 1 or 2.

Mr. H. Chodos: He wants Marjorie to do that.

The Court: I don't know anything about what our calendar problems are. I have a couple of personal calendar problems which invole—one of which involves the 26th of January, at least at current rating.

Mr. H. Chodos: The statute requires within ten days.

The Court: Is it ten? Let's get Marge and get the latest date we can give you. You better get it filed.

Mr. H. Chodos: Yes. If Your Honor please, if we can be excused, I'll go out to your table outside and prepare our papers, get the bond and make all those arrangements.

The Court: I will be here, I am sorry to say.

(Proceedings concluded.)

STATE'S RESPONSE TO APPLICATION FOR STAY OF RECEIVERSHIP

(Undated)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA

For the County of Los Angeles

Case No. C 267607

The People of the State of California, ex rel., ALVIN EARL TIMMONS, et al.

Plaintiffs,

vs.

Worldwide Church of God, Inc., a California Corporation, et al.

Defendants.

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[8] . . .

But, we wish to know whether millions of dollars in expenses for hotels, restaurants, jewelry, cameras and a myriad of other luxury personal items were actually incurred and had a reasonable relationship to church purposes.

State's Response to Application for Stay of Receivership

Where, as here, a dispute does not require the resolution by civil courts of controversies over religious doctrine and practice, no infringement on the parties' First Amendment rights results. *Presbyterian Church v. Hull Church* (1969) 393 U.S. 440, 449.

Respectfully submitted,

GEORGE DEUKMEJIAN, Attorney General,
LAWRENCE R. TAPPER,
JAMES M. CORDI,
WILLIAM S. ABBEY,
LAUREN R. BRAINARD,
Deputy Attorneys General,

By /s/ JAMES M. CORDI,
Deputy Attorney General,

Attorneys for Respondent.

Excerpts From Further Hearing

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday, February 21, 1979

[136] . . . • • • • •

The Court: . . . .

Now, the fact that I should determine is that the receiver should vacate the premises and let's see if we can get an audit. I have had all kinds of assurances from counsel that they're going to permit that audit to go forward.

Now, maybe they won't. Maybe they're not acting in good faith.

I'm going to make an assumption that they mean what they say, and if it develops that the auditors have any difficulty in that regard, I'm going to make it absolutely clear that the first thing I would do would be to entertain an order to show cause regarding contempt, and I would entertain a motion to place a receiver back in, and I won't hesitate to do it.

And I'm not talking about a receiver who will be supervising, because the next time a receiver goes in, he will be taking full charge. It will be a full-blown receivership with all of the powers of control, operation and the works.

There will be no supervision.

As I say, I want to make that very, very clear, because the court will not permit them to frustrate the orders of the court.

Now, it seems to me that at the present time, the [137] church ought to be given, say, one, and I should possibly

say one final opportunity to demonstrate their good faith and show us they will respond directly to the auditors, and furnish the auditors everything they need, absolutely in good faith and expeditiously.

And, incidentally, so it will not go without being mentioned, I do not accept, Mr. Browne, this argument about ecclesiastical interests prevailing when you are talking about the financial records of this church or any of these corporations.

If this receivership is vacated, and I have one or two petitions come into this court with arguments made that the financial records involve ecclesiastical matters, let me assure you that I will consider that evidence of bad faith, and it will be very strong evidence to me that the receivership ought to be back in there, because I just don't think ecclesiastical matters have anything to do with the financial aspects of the operation out there.

State Of California
Office of the Attorney General
Department of Justice
3580 Wilshire Blvd.
Los Angeles, California 90010
(213) 736-2304

January 31, 1979

Honorable William H "Bill" Ivers
Assemblyman, Forty-Second District
State Capitol
Sacramento, California 95814

Dear Bill:

Before addressing myself to some of the specific questions you have asked with regard to the action filed by my predecessor against the Worldwide Church of God, I would like to give you a little background so that you may understand the nature of the action and our duty to pursue it.

Worldwide Church of God, Inc. is a California corporation created under the general nonprofit code, as are Ambassador College and Ambassador International Cultural Foundation. The only legal distinction between the three organizations lies in the nature of their purposes: religious, educational and cultural, respectively. Federal and state tax exemptions were sought and obtained by each of the corporations, and they have for some years received the benefits, which accrue both publicly and privately from such status as well as from their ability to operate as California corporations. In the eyes of the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

In recognition of the public interest in charities, it has been consistently held by the courts that the state, has the duty and obligation to oversee the handling of their assets.

In most states, including California, this responsibility falls upon the attorney general.

Accountability and proper disposition of charitable assets are required at all times by all charitable organizations. Moreover, these standards although delicately balanced in the case of religious corporations, nevertheless apply in full force. There are numerous examples of attorney general involvement in such matters as exemplified by *People v. Christ Church*, 79 Cal.App.2d 858; *Metropolitian Baptist Church of Richmond, Inc. v. Younger*, 48 Cal.App.3rd 850; *Queen of Angels Hospital and Franciscan Sisters of the Sacred Heart v. Younger*, 66 Cal.App.3rd 359; *People v. Western Missionary Army*. There are, of course, other cases in which this office has involved itself in the supervision of assets held by religious corporations, many of which were resolved short of trial and appeal. Also, I am sure you must be aware that the United States Supreme Court has carefully delineated in its First Amendment decisions the cases involving church property on the one hand and church doctrine on the other hand.

Turning to the matter now before us, it is important to recognize that the arguments raised by the defendants, both constitutional and otherwise, have received extensive judicial review by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and are now pending before the California District Court. The record on which Judge Title converted the temporary receivership which was in place for seven days to a full receivership for the pendency of the litigation, was seven inches thick, consisting not only of declarations but also of documentary evidence and live testimony introduced in the course of a three day trial. In denying the petition for removal of the receivership, the Court of Appeal stated that it had read the record and concluded that the relief sought

by petitioners was not justified. Thus, the questions your constituent has raised concerning the sufficiency of evidence of wrongdoing and the appropriateness of our action in seeking and obtaining a receiver have been thoroughly aired and resolved in our favor.

In closing, Bill, let me add that we are constantly mindful of the faith reposed by many in their religious leaders. We also recognize that there are those who would view any legal challenge by the state as an attack on their religious beliefs. Nevertheless, the law imposes an affirmative duty on this office to require trustees of religious organizations to be accountable for all funds and other assets and to not divert them to their own use and enjoyment or to any use other than those authorized to carry out the purpose of the corporation. When, as here, we have evidence of such diversions, we are bound to bring it before the court as the ultimate custodian of all charitable assets. This we have done. The court, in turn, has ordered a receivership as narrowly circumscribed as the circumstances will permit.

I hope this will help in answering your questions and those of your constituents.

Sincerely,

GEORGE DEUKMEJIAN
Attorney General

State Of California
Department of Justice
George Deukmejian
Attorney General
June 21,1979

Mr. Ralph L.Baker
Baker, DeOme, Talarides & Batchelder
Central Building - 14th and Broadway
Oakland, California 94612

Dear Ralph:

It is always nice hearing from you. We enjoyed participating in the Armenian Olympics parade and it was well attended.

In you (*sic*) letter you expressed your concern over actions taken by the Attorney General's office against the Worldwide Church of God, and Faith Center Church. Under the law, each is deemed to be a charitable organization, holding its assets in trust for the public good.

The statutes and court decisions clearly impose a duty upon the Attorney General' office to insure that funds and assets of charitable organizations are used for the purposes stated in the articles of incorporation.

In each case, some members of the church notified the Attorney General's office that funds and assets were being diverted to other uses. Accountability and proper disposition of charitable assets are required at all times by all charitable organizations.

The United States Supreme Court has carefully delineated the cases involving church property on the one hand and church doctrine on the other hand in its First Amendment decisions. Moreover, these standards, although delicately balanced in the case of religious corporations, nevertheless must apply.

Attorney General's Letter to Baker

In the case of the Worldwide Church, you should know that the arguments raised by the defendants, both constitutional and otherwise, have been reviewed by three Superior Court judges, four Court of Appeal justices, a United States District Court judge, and the California Supreme Court has refused to act to terminate the receivership.

The record, which Judge Title used to order a full receivership, was extensive, consisting not only of declarations but also documentary evidence and live testimony introduced during a three-day hearing. Thus, any question concerning the sufficiency of evidence and appropriateness of the action in seeking and obtaining a receiver was thoroughly aired and resolved in our favor, and we have proceeded from that point.

Our office is simply trying to conduct an audit of the books and records of these organizations. If allowed to do so, we would then review all information obtained to determine what legal action, if any, to take, including action to recover, on behalf of the church, funds and assets that may have been wrongfully diverted.

The Morningland case arose when several high ranking former members of the group informed our office that their attorney, Mr. Masry, had informed the leadership of the group that for $10,000 former Lt. Governor Dymally would arrange for a legislative committee to conduct hearings dealing with problems that Morningland was having with city officials of the City of Escondido. We were further informed that Morningland did in fact give the $10,000 to Mr. Masry. This case involves allegations of bribery of a public official and is not in the same category as the Worldwide Church and Faith Center cases.

The ex-parte action taken in the Worldwide case was done prior to my becoming Attorney General, however, the

Attorney General's Letter to Baker

Worldwide Church and the other defendants in that case have continued to refuse to allow us to audit their books and they are doing everything they can to prevent us from carrying out the duty the law has placed upon this office.

Most cordially,
/s/ George
George Deukmejian

CHURCH VERSUS STATE: THE BATTLE LINES ARE DRAWN

Pasadena Star-News
Thursday, September 20, 1979

By Laurinda Keys
Associated Press

A government attorney declares in court that "all church property is state property."

A court-appointed official takes over a church, orders its members to send all donations to him and appoints a new chief minister.

State agents raid a church and confiscate records with the explanation that they're looking for evidence of possible crime. Months pass without charges being filed or the church property being returned.

These aren't developments from behind the Iron Curtain. They all happened within the past year right here in California. Government authorities throughout the state are quietly cracking down on alleged illegalities within religion, drawing the wrath of the faithful who say their First Amendment guarantee of religious freedom is being violated. Many religion and legal observers see this trend toward more government involvement in religion as a backlash to three highly publicized factors:

— The People's Temple mass murder-suicide, which prompted a public outcry for vigilant government examination of violence-prone religious cults.

— The reported brainwashing of young people by some cults, and counter "deprogramming" efforts.

— The apparently huge sums of money collected by charismatic preachers who use mass media.

Some of the more vigorous church vs. state battles erupting in California are based on the state attorney general's enforcement of a little-known state code section.

The law, which exists in only one other state — Texas — is interpreted by state government lawyers as requiring the state to oversee incorporated, nonprofit religious organizations in the same way it watches other non-profit charitable trusts.

The attorney general's office maintains that there is no First Amendment issue involved.

Michael Franchetti, chief deputy to Attorney General George Deukmejian, says he doesn't "see how else we can make sure they are what they say they are and that they are not misusing the charitable funds."

The alleged misuse of funds forms the basis of the state's case against the Worldwide Church of God, probably the most prominent of California's recent church-state conflicts.

The state asked that the church be placed in receivership after six former members of the church charged that Herbert W. Armstrong, who founded the church, and Stanley Radar, the No. 2 man, were squandering donations and using church funds for their personal benefit. The state claims church leaders have pilfered at least $1 million a year over the past four years.

Radar, who denies the accusations, maintains that churches, because they have a special status under the First Amendment should not be lumped with other nonprofit organizations.

"The Members of the Church don't give money to the state of California, they give it to the church" argues Radar.

The state's action against the Worldwide Church of God, founded by a man who claims to be a prophet and Christ's apostle, was taken without notice, without a chance for the

church to argue. A court-appointed receiver arrived with sheriff's deputies at church headquarters in Pasadena and took over the property, records and money.

The receiver removed Armstrong as head of the church and appointed minister Wayne Cole to run the church.

While declining to comment on specific cases, Franchetti said the attorney general's office has two duties under the law:

"First the law protects all citizens against people getting tax-exempt status when they are not entitled to it. And second, there is some feeling that people should be able to have faith that if they contribute to a nonprofit organization, the money is going to be used for the purpose they gave it."

Franchetti added that receivership is sought by the attorney general's office "when there is a fear that assets will be lost"

Though the Worldwide Church of God case has been the most publicized recent church vs. state clash, it's not the only one.

Last summer, the state attorney general demanded that the Faith Center Church in Glendale, headed by flamboyant television preacher Eugene Scott, turn over its records for an investigation of misuse of funds.

Last spring, agents for the attorney general's office raided the Morningland Church in Long Beach, seized records and arrested church members for interfering with the raid. The agents were seeking information on a possible bribe of former Lt. Gov. Mervyn Dymally, the attorney general's office said. No bribery charges have been filed and the records have not been returned.

"We're still working on it." said Tony Cimarusti, spokesman for the attorney general's office. He said that

although the cases of the Worldwide Church of God and the Faith Center may involve "delicate issues," the Morningland case was a criminal matter and "shouldn't be bunched up with the others."

Church vs. state controversies are developing at the local level, too. Grace Community Church, claiming the largest Sunday attendance of a Protestant church in Los Angeles County, was told it could not conduct Bible studies in a church-owned house in suburban Sun Valley without a special zoning variance. However, city officials said the house could be used for a beer party because that wouldn't be church-related.

"I think the only reason there have been more of these antichurch cases in California is because there are more religions here than anywhere else," says John Crossley, USC religion professor.

He and others believe that although churches slightly out of the mainstream have had the worst legal troubles so far, the "mainline" religions will be the next targets.

Tom Butz, business administrator for the Southern California District of the Lutheran Church-Missouri Synod, said his church is currently involved in a court fight with the state over a requirement to pay unemployment tax and disability benefits for its parochial school teachers.

"It gets into the state determining what portion of a teacher's time is spent on religion. That's a First Amendment issue." said Butz.

During the past four years, according to Butz, the church's annual legal costs have increased 40 times over what they had been in the past 20 years, most of it spent fighting new rules or new interpretations of rules by government bureaucracies.

Franchetti says the attorney general's office has been

auditing books and conducting investigations for years with no complaints.

"Individuals tend to confuse the issue when they say our actions are an infringement on religious principle, when the real issue is whether they have carried out their duties under the law," said Franchetti.

He explained that under the law, the duty of a trustee of a nonprofit, charitable organization, even a religious one, is to make sure that expenditures are for the benefit of the organization and that the trustee receives no personal benefit from his actions except a salary.

Franchetti said individuals involved in some recent cases "tried to make a big case to the public" and that they "are confusing the issue by raising the allegation of infringement on religious freedom."

There seems to be little question that it's a confused issue. Even those who believe the state is treading on religious freedom disagree on how and when to fight, or whether to fight at all.

Worldwide's Rader said he would have let the state investigators look at church documents if the court action hadn't been taken. But Andrew Zanger, attorney for Faith Center, said court action or not, the state "is not even going to get to see a voucher for toilet paper."

Sam Ericson, attorney for the fundamentalist, nondenominational Grace Community Church said. "There is a legitimate (government) concern in some of these cases. But instead of being neutral, the government is taking an anti-church position. They're trying to kill the mouse with a shotgun."

He said his church's reaction is to "make sure we don't open ourselves up to those kinds of charges. We have no doctrinal right to protect our books. If the attorney general

wants to look at them, he can. Whether or not he should is a different story."

But what if the government enforced a law that said churches could not discriminate against homosexuals in hiring? "When the government tries to dictate doctrine, that's when I say stay out," Ericson replied. "If there is an area of doctrine that dictates to us as believers, and the government comes in and says you do something else — hire a certain individual — that's where we draw the line and fight."

The First Orthodox Presbyterian Church in San Francisco is engaged in just such a fight. An organist who claims he was fired because he was gay is suing the church under a municipal ordinance that prohibits employers from discriminating on the grounds of sexual preference.

Surprisingly, this and the other church-state conflicts, including the Worldwide Church of God case, have attracted little public or even interfaith support. Except for observers like USC's Crossley, only the members of the churches involved seem to care.

"Because we live in a secular age, few of us can understand the kind of passion that once sent believers smiling to the stake," said Crossley. "The polls say we are believers, but we believe bloodlessly these days.

"This may be why so little public outrage has been voiced at the state of California's intrusion into affairs of the Worldwide Church of God," suggests Crossley.

Without saying directly that the churches in trouble deserved what they got, spokesmen for better known religions say they don't want to get involved in the legal cases of groups such as Worldwide or Morningland.

Monsignor John Dickie, head of the Roman Catholic Conference in Sacramento, said, "We studied the Worldwide Church of God case and decided not to get involved.

It is not an issue that affects us."

Rader acknowledged that his church is somewhat alone in the battle at the moment. "But thank God we have the money and the resources to fight," he said. The case is now before the U.S. Supreme Court.

Rader said court costs, the receiver's expenses and debt incurred because of legal difficulties could end up dissipating the very funds the attorney general intended to protect.

Assistant Attorney General Warren Abbott admitted that possibility. "If our court system doesn't work very well in this case, it is going to eat up the assets," he said.

But if that happens it will be the fault of the church leaders and their lawyers, not the state, he said.

The church representatives "have it within their power to resolve this thing. They could end it immediately" by cooperating with the receiver and dropping pretrial maneuvers, he said.

As in the Worldwide case, the attorney general's office also demanded to see the books and records of Faith Center after ex-members had said Scott was using church money to support his parents and sending money from financially strapped Faith Center to help out his father's church in Oroville, Calif.

Chanting, "No, no, we won't show," Scott fought the order to a stalemate. A higher court now will decide whether the attorney general has the right to demand to see church records.

But even if the Faith Center and Worldwide Church of God are able to prove in higher courts that churches aren't covered by the state law cited by the attorney general, the battle could start again Jan. 1.

That's the effective date of a new state law that specifically cites non-profit corporations with religious purposes as coming under the attorney general's investigative authority.

Zanger feels the state's move into the area of church corruption is a calculated one. "Churches are popular to attack now because of the cults and Guyana," he said. "If you catch one burglar, people say, 'So What?' But if you get a whole group you're gaining results."

Franchetti defends the state's interest on the basis of taxes.

"In a society where everything is taxed, I don't think you can avoid at some point a government agency having to make some judgment regarding a religious organization, even if it's to decide whether or not the organization should be taxed," he said.

"If we don't have some way of insuring that these organizations don't misuse their tax-exempt status, we have no way of being able to make sure that just anyone, regardless of intent, doesn't get tax-exempt status. Otherwise we could all claim to be religions and we would all be exempt from taxes."

Franchetti said that in the same way the attorney general makes sure that funds donated to the American Cancer Society are spent on cancer research, the state Justice Department must make sure that funds donated to a church are used for the church's stated purposes. "You have to look at an individual case and see if what they are doing is to expand the church or convert people or just for the personal benefit of the trustees," he said.

Franchetti also said the government has the authority to remove a trustee of a religious tax-exempt organization if he violates the law. It would be possible for such a person to remain as religious leader of the church but have nothing to do with the finances, he said.

Pasadena Star-News Article

"The question is — What is a church? How do you separate the financial from the ecclesiastical?" says Robert Toms, member of the Christian Legal Society's Center for Law and Religious Freedom.

The difficulty in making this distinction was illustrated when the attorney general tried to show why a receiver was needed to oversee the Worldwide Church of God finances.

People send in their money . . . to do what they believe is God's work. We have shown . . . that the money is not being used for God's work," said the state's attorney.

But should the state be determining God's work? asks Crossley. "It's dangerous when the attorney general starts trying to decide what is the proper and the improper use of church funds," he said.

Toms sums up the whole issue this way: "There has to be balance. Society needs some protection from frauds and bunco artists but religious liberty must be protected."

However, he concedes "the free exercise of religion cannot be without restraint. Churches must obey fire laws, for instance. Because of the gray area some confrontation is inevitable."

"THE FIRST AMENDMENT:
CHURCH VERSUS STATE"
FINAL SCRIPT

Aired 16 January 1980 over KCOP, Los Angeles

[19, by Stanley Rader] . . . .

Wild allegations have been made against me and Mr. Armstrong, Mr. Helge. If they had any evidence of any improprieties of a criminal nature, for example, let them bring those before a grand jury. Let them indict Mr. Armstrong and me and Mr. Helge and others for these alleged improprieties. We know we have committed no wrong of a civil or a criminal nature. But that is the proper forum for those things to be heard. We will be very happy to defend ourselves in that forum. But the church must remain sacrosanct.

STATE'S SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR INJUNCTION PENDING APPEAL

(Dated 16 November 1979)

(emphasis added)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Case No. CV 79-0183 LEW (TX)

Worldwide Church of God, Inc., et al.,

Plaintiffs,

vs.

State of California, et al.,

Defendants.

I

INTRODUCTION

In a nut shell, what plaintiffs' (*sic*) seek is a ruling that the State cannot assert civil liability against individuals alleged to have breached their fiduciary duties as trustees of a charitable nonprofit corporation by diverting assets to their [2] own use if that corporation is organized for religious purposes. *Having failed to sell that proposition* to any of the Courts of the State of California, to District Judge Robert Firth, or *to the United States Supreme Court, they now come knocking at this Court's door*.

STATE'S NOTICE OF MOTION AND MOTION FOR ORDER HOLDING SPECIFIED DEFENDANTS IN CONTEMPT OF DISCOVERY ORDER OF THIS COURT AND FOR SANCTIONS; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF LAUREN R. BRAINARD IN SUPPORT THEREOF

(Dated 8 February 1980)

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
For the County of Los Angeles
Case No. C 267 607

The People of the State of California, et al.,

Plaintiffs,

vs.

Worldwide Church of God, Inc., a California non-profit corporation, et al.,

Defendants.

---

[7] . . .

To date thirteen petitions for extraordinary relief arising out of this case have been denied by the California Court of Appeal, ten petitions for hearing have been denied by the California State Supreme Court, and two petitions for certiorari have been denied by the United States Supreme Court. Nevertheless, defendants have refused, and continue to refuse, to comply with this court's discovery orders.

[12] . . .

To date, thirteen petitions for writ of mandate/prohibition, etc. have been made to the California Court of Appeal. All of those petitions, including all the petitions relevant to the

discovery referred to in this motion, have been denied. In addition, Petitions for Hearing from these denials have been denied by the California State Supreme Court. Petitions for Writ of Certiorari on two questions, the receivership and Rader deposition, have been made to the United States Supreme Court. Those petitions were denied hearing on October 1, and October 15, 1979 respectively. Each of these myriad petitions for appellate court relief have raised substantially the same issues. We need not repeat them here for this court's benefit.

Defendants cited Judge Johnson's remarks regarding the possibility of direction from a higher court as a reason for [13] the appellate courts to take the case. Plaintiff submits that this court has received direction from the appellate courts. The repeated denials of these petitions, all of which argue the same issues which have been repeatedly rejected in this court, constitute an affirmation of this court's rulings. In effect, the appellate courts have spoken in the form of these denials and have upheld the position of this trial court.

ROSEN, REMCHO & HENDERSON
Attorneys at Law
155 Montgomery Street 15th Floor
San Francisco, California 94104
Telephone (415) 433-6830

July 3, 1979

Supreme Court of the State of California
4250 State Building
455 Golden Gate Avenue
San Francisco, CA 94102

Re: *Fred G. Lopez, et al. v. Superior Court, et al.* 2nd Civil No. S6459

To the Honorable Chief Justice and Associate Justices of the California Supreme Court:

Introduction

On behalf of the National Council of Churches in the U.S.A., (''the National Council''), we are writing to urge the Court to grant the plaintiffs' petition for hearing in the above-captioned case.

This case is one of several that arose out of receivership proceedings involving the Worldwide Church of God. These plaintiffs are taxpayers and concerned members of the Church who have been denied permission to intervene in the case-in-chief against the Church, *People of the State of California v. Worldwide Church of God*, Los Angeles Superior Court Case No. C 267607. The National Council of Churches supports their petition because it directly challenges the constitutionality of California Corporations Code Section 9505 as applied to religious groups organized as non-profit corporations. Should this Court grant the petition for hearing, the National Council of Churches will seek leave to file a brief *amicus curiae* in support of petitioners.

Statement of Interest and Support

The National Council of Churches in the U.S.A. is a cooperative agency of thirty-two national Christian religious bodies having an aggregate membership of over 40,000,000. Many of the National Council's member organizations are organized as religious non-profit corporations. The National Council itself has a number of affiliates which are similarly organized. These include the Interfaith Center on Corporation Responsibility, a New York corporation, and CROP, an Illinois corporation with offices in California organized for the purposes of raising food to relieve world hunger.

The National Council of Churches is deeply concerned about the serious invasions of First Amendment freedom that have occurred in the *Worldwide Church of God* receivership proceedings. Quite frankly, the National Council has never before encountered such a sustained and destructive governmental assault on religious freedom. The Church's reports of the State's activities would be almost unbelievable were they not supported in full by court transcripts and written documents.

The crux of the State's argument appears to be that by incorporating as a religious non-profit corporation, the Worldwide Church of God thereby waived its basic First Amendment rights, as well as its right to claim the clergy-penitent and attorney-client privileges. Alternatively, the State appears to argue that none of these rights have as yet been infringed, despite the fact that State officials literally ran the Church between January 2, 1979 and March 2, 1979 and would be running it still had not an appeal intervened. Moreover, the State's argument that it has not violated any constitutional protections apparently ignores the fact that the Receiver has fired Church employees, scrutinized church records, including membership lists and confidential communications, and intercepted and stopped a communication from the pastor to the Church's membership worldwide. In addition, both the State and the trial court contend that it is the prerogative of the courts to determine whether a matter is ecclesiastical as opposed to business or financial in nature, thus coming within the Receiver's jurisdiction and control. As is ably pointed out in the petitions for hearing filed in this and other related cases, the State's contentions fly in the face of virtually every recent decision by the Supreme Court of the United States concerning the relationship between church and state.

We urge you to accept this case for hearing in order to resolve the fundamental questions which it raises about the proper role of the State in church affairs.

Respectfully submitted,

SANFORD JAY ROSEN,
ROBIN B. JOHANSEN,
ROSEN, REMCHO & HENDERSON,
By /s/ Robin B. Johansen

Attorneys for the National Council of Churches in the U.S.A.

MOTION FILED
APR 14 1980

IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,
Petitioners,

vs.

STATE OF CALIFORNIA, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three.

Motion for Leave to File Brief Amicus Curiae and Brief of Church of The Nazarene as Amicus Curiae in Support of Granting Certiorari.

STEPHEN W. REED,
301 E. Colorado Blvd., Suite 500,
Pasadena, Calif. 91107,
(213) 449-4521,
Attorney for Amicus Curiae.

Of Counsel:
BROWN AND REED, INC.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

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IN THE

Supreme Court of the United States

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No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,
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STATE OF CALIFORNIA, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three.

Motion for Leave to File Brief Amicus Curiae of Church of The Nazarene as Amicus Curiae in Support of Granting Certiorari.

Pursuant to Rule 42 of this court, the following organization respectfully moves for leave to file a brief amicus curiae in support of granting a writ of certiorari in this matter.

The Church of the Nazarene is a Missouri, non-profit Corporation organized as the ecclesiastical headquarters of over 4,831 individual Church Congregations within the United States, and in particular, within the State of California, comprised of over 473,726 persons. The Church of the Nazarene is keenly interested in any activity which affects the free exercise of religious belief and practice.

Consent to File This Brief of Amicus Curiae Was Requested of the Parties but Not Received.

This moving party requested permission of the parties to this matter to file a brief amicus curiae in connection with the petition for a writ of certiorari. Petitioners gave their consent, but Respondent, State of California, declined to do so. Accordingly this motion is submitted.

The Attached Brief Describes the Significance of the Instant Case and the Consequences of the Issues It Presents.

The moving party has filed this brief because of an apprehension that the adverse resolution of the issues presented here would pose a grave threat and perhaps irreparable damage to the free expression of religious belief and practice in the United States.

The Church of TheNazarene interprets the charitable trust theory underlying the Attorney General's case and the discovery orders described in the petition to constitute a direct challenge to the separation of Church and State mandated by the First Amendment to the Constitution.

Amicus is not a party to any of the actions involved in the petition before the Court nor involved in any of the activities alleged by the respondent, State of California, to constitute wrongdoing on the part of the petitioners. Amicus is in a position, because of its independent status, to present to the Court an objective and knowledgeable point of view to aid it in considering the important issues presented by the petition.

This action directly affects Churches and religious organizations of every kind. The moving party believes that its points of view as a Church affords a relevant reference in assessing the fundamental constitutional issues presented to the Court.

For the foregoing reasons, this moving party urges the Court to permit it to file the accompanying amicus curiae brief and thereby to urge upon this Court that it grant the petition for a writ of certiorari.

Respectfully submitted,

BROWN AND REED, INC.,

BY STEPHEN W. REED,

Attorney for Amicus Curiae.

IN THE

Supreme Court of the United States

October Term, 1979
No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,
Petitioners,

vs.

STATE OF CALIFORNIA, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division Three.

Brief of Church of The Nazarene as Amicus Curiae in Support of Granting Certiorari.

Introduction.

The defendants in the captioned case have filed with the Court a petition for a writ of certiorari to the California Court of Appeal. The Church of The Nazarene, as Amicus Curiae strongly supports this petition and urges that it be granted.

Amicus shares the alarm of others who have filed Motions as Amicus Curiae at California's Public Trust Doctrine[1], as it purports to apply common law trust principles to all

[1]Motion for Leave to File Brief Amicus Curiae and Brief of American Civil Liberties Union of Southern California, *et al.*, Page 2.

churches, whether organized under California statutory law or not.

Each Amicus interprets the Attorney General's theory as a direct attack at organized religious expression and the freedom of association. The Court is thus presented the question of the constitutional limits on the scope of the Public Trust Doctrine advanced by the State of California.

Statement of the Case.

The description of the facts of this case has been thoroughly stated by Petitioner and other Amici. For the sake of brevity, Amicus will adopt, in pertinent part, the Statement of National Council of Churches of Christ in the U.S.A., *et al.*, as follows:

The Attorney General of California, acting for the state, has declared that churches and religious organizations are public, charitable trusts accountable to the state and consequently, that:

1. All church or synagogue property is deemed to be public property, rather than being owned by the church for synagogue or its members, and is therefore subject to supervision, regulation and control by the state;

2. All church or synagogue records are public records and are subject to audit and review by the state, whether or not there is reasonable ground for its action;

3. The state may, with or without cause, compel a church or synagogue to account for all of its income and expenditures so that the state may determine if its funds are being used for proper religious purposes;

4. Church or synagogue officials are public trustees who serve as agents of the state and may be removed and replaced by the state at will;

5. The state has the authority to require the reorganization of internal church structures from hierarchical to congregational form;

6. The state may appoint a receiver to take possession of all church or synagogue property and records and supervise operations until the litigation is finally determined, no matter how long that may take; and

7. The state may conduct ongoing investigation as a means of accomplishing all or any of the foregoing objectives.

Questions Presented for Review.

Does the Charitable Trust theory, as applied to churches and other religious organizations entangle the affairs of the State with those of a church and/or result in the establishment of a church or state religion as proscribed by the First Amendment?

May the State of California, consistent with the First Amendment, disregard the religious character of an established church, and because it is incorporated as a nonprofit corporation under state law, treat it as a charitable or public trust and establish the following relationship with and involvement in church affairs:

1. All church property is deemed owned by the People of the State not the church or its members and is subject to supervision, regulation and control by the State;

2. All church records are public records and are subject to audit and review by the State;

3. The state may compel the church at any time to account for all of its income and expenditures so the State may determine if church funds are being used for proper religious purposes;

4. Church officials are public trustees who serve and may be removed and replaced by the State;

5. May the State reorganize church structure from hierarchical to congregational form.

Statutory and Constitutional Provisions Involved.

The rights asserted by Petitioners arise under the Religion Clauses of the First Amendment of the United States Constitution as applied to the states by virtue of the Fourteenth Amendment.

ARGUMENT.

I.

California's Public Trust Doctrine Impermissibly Trenches on the Free Exercise of Religious Practice and Association.

A. Churches Are Different From Other Non-Profit Corporations.

The First Amendment begins with the language: "Congress shall make no law abridging . . ."[2] There follows a list of rights guaranteed to the people of this country considered by many to be the paramount marks of a free people: The right of free exercise of religious belief and exemption from the establishment of a state-sponsored church; freedom of speech and the press; right of peaceable assembly; and petition for redress of grievance.

Two of these paramount guarantees are in issue before this court: The right of free exercise of religious freedom and the right of peaceable assembly—the freedom of association.

Expression of religious belief involves the absolute freedom to believe, and also the freedom to put belief into action. Though not absolute, this right of action may be limited only in response to a compelling interest.[3] But belief and action are inextricably bound. If one is prohibited (or merely discouraged) from putting belief into action, the promise of the First Amendment is, indeed, hollow.

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[2] *Smith v. California*, 361 U.S. 147 (1959).

[3] *Sherbert v. Verner*, 374 U.S. 398, 403, 10 L.Ed.2d 965, 969-70, 83 S.Ct. 1790 (1963); *Wisconsin v. Yoder*, 406 U.S. 205, 229-30, 32 L.Ed.2d 15, 32-33, 92 S.Ct. 1526 (1972); *McDaniel v. Paty*, 435 U.S. 618, 631 n.2, 55 L.Ed.2d 593, 604, n.2, 98 S.Ct. 1322 (1978) (concurrence of Brennan, J.).

Other Amici[4] have noted that by declaring every charitable organization to be a public trust and every church to be a charitable organization, every church becomes, *ipso facto*, a public trust, accountable to the State as guardian of the public interest. Is the power claimed by the Attorney General to *remove* church officers substantively different than the proscribed power to appoint them?[5] The Attorney General's theory proceeds on the unfounded assumption that there is no difference between religious non-profit corporations (churches, etc.) and charitable non-profit corporations.

B. The Charitable Trust Theory Necessarily Inhibits Religious Freedom of Association.

The Attorney General has sought, as part of his requested discovery, the names of all recipients of gifts from the church over the past decade, sources of loans and other finances, the names of persons receiving aid from the church and numerous other written materials dealing with the internal operation of the church, its ministers, and laity.[6]

It is difficult to conceive a more intrusive method for the "control" of a group dissident or otherwise than the revelation of membership lists, records of donors and beneficiaries of the Church's gifts. The intimidating effect of such disclosure is surely clear to any person benign or diabolical interested in controlling or affecting the associations of persons and groups. This Court has dealt harshly with such conduct in the secular realm. *NAACP v. Alabama*, 357 U.S. 449, 462, 2 L.Ed.2d 1488, 1499-500, 78 S.Ct. 1163 (1958); *Buckley v. Valeo*, 424 U.S. 1, 64-66, 46 L.Ed.2d 659, 713-

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[4]Brief of American Civil Liberties Union of Southern California, *et al.*, page 12.

[5]*Cf. Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94 (1952).

[6]*Cf.* §§7240 and 9230.

14, 96 S.Ct. 612 (1976).[7] It is a short step from "discouraging" persons from associating with an organization by means of public disclosure to outlawing association altogether! Freedom from such intimidation is at least as important in the realm of religious expression as in the secular. One might ask reasonably whether the members of a church are less entitled to privacy and freedom of association than members of a secular group.

II.

California's Public Charitable Trust Doctrine Involves an Impermissible Entanglement of Church and State.

The California Attorney General seeks to classify all religious organizations as public charitable trusts for the benefit of all the people of the state. This he may not do! California "cannot make public business of religious worship."[8] If evidence is required to establish the unhealthy entanglement of church and state proposed by the Attorney General, one need look only to the suggestion that the church, being merely a ward of the State needs no defense; needs no representation; indeed, should welcome the embrace of the Attorney General, its keeper and guardian.[9]

An unnatural entanglement of the State of California with the affairs of religious organizations is inherent in the Attorney General's Charitable Trust Doctrine. The conflict is

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[7]See also, *Gibson v. Florida Investigation Committee*, 372 U.S. 539, 543-45, 556-58, 9 L.Ed.2d 929, 934-35, 941-42, 83 S.Ct. 889 (1963) and *Surinach v. Pesquera de Busquets*, 604 F.2d 73, 77-78 (1st Cir. 1979).

[8]*Lemon v. Kurtzman*, 403 U.S. 602, 633, 29 L.Ed.2d 745, 767, 91 S.Ct. 2105 (1971).

[9]Page 13, Transcript January 10, 1979 Hillel Chodos, Special Deputy Attorney General appearing before Judge Title: "No. I don't think the Church has a single interest that needs counsel before Your Honor. In my view, the Church ought to welcome the supervision of the Court."

inevitable. It is well established that the religious freedom guaranteed under the First Amendment has nothing to do with reasonableness of belief so long as the act or refusal to act derived from such belief are not directly harmful to the public.[10] The Charitable Trust theory will always conflict with First Amendment freedoms because it will always impose a "reasonableness" test on the expression of belief wherever the property, funds or assets of a church are involved. Such a dispute lies at the heart of the instant action. The Attorney General has alleged misuse and waste of church assets. (Second Amended Complaint, Paragraphs 12, 21, 37 and 40). The Defendants, to the extent they have answered the allegations of the Attorney General, have alleged that the expenditure of church funds charged by the Attorney General as improper, constitute, to a large measure, the practice of the religious belief of the church. The issue, therefore, is squarely drawn: Does the California Attorney General have the authority, by common law or otherwise, to second-guess the ecclesiastical decisions of the leadership of the Worldwide Church of God, or any other church simply because it involves the expenditure of funds, the purchase or sale of property, or the making of gifts?

Inherent in the charge that the leaders of the Worldwide Church of God have misused church assets and are removable at the will of the Attorney General is the notion that the Attorney General of the State of California is better

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[10]*Bolling v. Superior Court*, 16 Wash.2d 373, 133 P.2d 803 (1943).

equipped to judge between uses of church property.[11] The Court is, therefore, presented with the spectre of an officer of the State of California deciding whether gifts to widows and orphans are "better" (or worse) than the construction of new church facilities; whether the donation of gifts as part of the ministry of the church are better (or worse) than the establishment of new churches; whether the payment of salaries to leaders of the church is better (or worse) than the support of missionaries; whether the creation of missionary facilities is better (or worse) than the collection of food for the poor; whether the collection of food for the poor is better (or worse) than the training of new ministers of the gospel.[12] The absurdity of such a proposition is patent. Yet, that is specifically inherent in the proposition advanced by the California Attorney General.

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[11]*Cf. Walz v. Tax Commission*, 397 U.S. 664, 675 (1970) — The question is "whether the involvement is excessive, and whether it is a continuing one calling for official and continuing surveillance leading to an impermissible degree of entanglment."; *Presbyterian Church in the U.S., et al. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church et al.* 393 U.S. 440. The court there flatly rejected the "departure-from-doctrine" approach advanced by the State of Georgia on the ground that it necessarily involved the state in determinations of doctrine which were forbidden by the First Amendment. It is impossible to separate the reach of California's "charitable trust" doctrine from Georgia's discredited "departure-from-doctrine" theory. By what standard will the Attorney General *measure* the degree to which a church has fulfilled (or departed from) its purposes? The Articles of Incorporation of the Worldwide Church of God, appended to the Attorney General's Complaint, clearly describe the *purpose* of the Defendant: "(a) To proclaim the Gospel of Jesus Christ . . . to assemble ourselves together in worship of Almighty God . . ." If a church expends money—or sells or buys property as part of its proclaimation of the gospel, how is the State to judge? For the Attorney General to essay to evaluate the performance of the Church in achieving that purpose inevitably involves him in the process of weighing one ecclesiastical decision against another.

[12]*Cf. Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94 (1952) where this Court frankly rejected the idea that, by statute, the State of New York might regulate the selection of an archbishop of the Russian Orthodox Church.

III.
California Has Failed to Show a Compelling Need for Such Intrusion in the Affairs of a Church.

It is doubtless the law that a government may *not* restrict expression or exercise of religious belief.[13] It seems equally clear that the burden of proving the existence of facts sufficient to show that compelling interest rests squarely on the State.[14] As of the date of this brief, the record is devoid of any evidence suggesting that the State of California has a compelling interest in the affairs of the Worldwide Church of God. The record, however, is equally clear that the cost to the Worldwide Church of God and to all of the amici and others, as yet unrepresented, resulting from the intrusion of the State of California is immense. The very possibility of these kinds of proceedings imposes a grave chill on the practice of religion. What church or organized religious body can now ignore safely the possibility that its policies, its polity, its ecclesiastical structure, or its very beliefs will be the subject of the next "examination" by the California Attorney General?[15] What is there that is sacrosanct within the practices of any of your Amici which is not equally sacrosanct within the practice of the Worldwide Church of God?

California is not powerless to control any activity undertaken in the name of religion. As this Court observed in *Sherbert v. Verner*, 374 U.S. 398, 403, 10 L.Ed.2d 965, 970, 83 S.Ct. 1790 (1963), the right to act must give way to circumstances of compelling interest, as in the case of

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[13] *Wisconsin v. Yoder*, 406 U.S. 205 (1972).
[14] *Everson v. Board of Education*, 330 U.S. 1 (1946).
[15] *Cf. Younger v. Faith Center, Inc.*, Case No. C254329 (Superior Court of the State of California for the County of Los Angeles) Appeal pending in California Court of Appeal for the Second Appellate District, 2d Civil No. 56574.

conduct that "pose[s] some substantial threat to public safety, peace or order." Unquestionably, individual criminal conduct may be prosecuted and punished as such regardless of that fact that it may have been religiously inspired.[16]

In *United States v. Ballard*, 322 U.S. 78 (1944), the Court with only one dissenter, held that no agency of government has constitutional competency to pass upon the validity of religious profession even when prevention of fraud is asserted to justify its intervention. In language particularly applicable to the present case, the Court there said (at pages 86-87):

> "Hearsay trials are foreign to our Constitution. Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law. Many take their gospel from the New Testament. But it would hardly be supposed that they could be tried before a jury charged with the duty of determining whether those teachings contained false representations. The miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer are deep in the religious convictions of many. If one could be sent to jail because of a jury in a hostile environment found those teaching false, little indeed would be left of religious freedom. . . . The Religious views espoused by respondents might seem incredible, if not prepos-

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[16] *Davis v. Beason*, 133 U.S. 333, 341-42, 33 L.Ed. 637, 639-40, 10 S.Ct. 299 (1890). It is instructive to observe that the individual defendants have repeatedly urged the California Attorney General to prosecute them criminally if he can. He has not done so to date!

terous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When the triers of fact undertake that task, they enter a forbidden domain.''

We may ask reasonably, therefore, What *is* the compelling need? The answer appears to be: None!

IV.

California's ''Public Trust'' Doctrine by Its Very Terms Constitutes an Establishment of Religion.

The Second Cause of Action of the State's Complaint seeks the removal of certain officers and directors of the Church and their replacement with others more satisfactory to the Attorney General. This is surely the precise behavior proscribed by the ''establishment'' clause of the First Amendment, and by this Court in *Kedroff v. Saint Nicholas Cathedral* 344 U.S. 94, (1952).

The logic of the Attorney which compels accounting, disclosure, and authorizes the supervision and removal of officers, directors and leaders of the church surely also compels an authority to establish a church.

It appears that the California Attorney General is, in fact, willing to extend his Charitable Trust Doctrine to its logical conclusion. Among the ''logical'' conclusions to which the Charitable Trust Doctrine has been drawn is the notion that because the officers and directors of the church are mere trustees of a public trust, the Church itself has no legitimate expectation of privacy, property rights, or proprietary interests in its assets, books and records. Assuming *arguendo* that the officers and directors of any corporation—religious or otherwise—have no reasonable expectation of property rights in the assets of the Corporation solely by reason of their directorates or officerships, it does not follow that the

organization, itself, has no similar rights or reasonable expectations. It is worthy of note that the Worldwide Church of God is a named defendant in this action. Its corporate rights, expectations, and those of its members are blithely ignored by the righteous sweep of the California Attorney General's proposed discovery. Other amici have suggested that the California Attorney General has ample tools available to him for the prosecution of miscreance if, in fact, evidence of criminal behavior can be found.[17] But the State's complaint attacks the church with the corollary argument that its acts, its policies, its polity, and, ultimately its ecclesiastical structure, are subject to review, approval and modification of the California Attorney General. That is surely not the law and is equally surely contrary to the First Amendment.

This Court has previously stated: ''The general principle deducible from the First Amendment is this: that we will not tolerate either governmentally established religion or governmental interference with religion.'' [*Walz v. Tax Commissioner* 397 U.S. 664 (1970)].

The Attorney General has set out a course, the end of which can only be the establishment of a church patterned after his notions of what a church should be.[18] The State does not say *how* one will be able to separate the financial

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[17]Motion For Leave to File Brief Amici Curiae and Brief of American Civil Liberties Union of Southern California, *et al.*, pages 21-22.

Second Amended Complaint, Pargraphs 22 and 25. Cf. The clear prohibition against the operation of a religious school by the State, *National Labor Relations Board v. Catholic Bishop of Chicago*, 440 U.S. 490 (1979).

[18]Second Amended Complaint, Paragraph 25, which provides, in pertinent part: ''(a) The Church . . . should be required to select a board of directors . . . authorized and empowered to oversee and supervise its financial affairs (as distinguished from its ecclesiastical or spiritual affairs) . . .''

from the ecclesiastical and spiritual affairs of the church.[19] Your Amicus suggests that the Attorney General must, perforce, engage in prohibited review and evaluation of ecclesiastical and spiritual affairs *first* in order to determine whether he is regulating only financial affairs or has crossed into the prohibited realm.

Other amici have correctly noted that when the State, whether through the Attorney General or a court, is empowered to decide for itself what is or is not ecclesiastical and to determine finally whether the manner in which a church performs its religious mission is in conformity with "the general purposes for which it is formed,"[20] that entanglement is exalted to a doctrinal level, and the very inquiry which the Court has characterized as "impermissible"[21] becomes sanctified.[22]

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[19]In *Everson v. Board of Education,* 330 U.S. 1, 15 (1947), and later cases, *McCollum v. Board of Education*, 333 U.S. 203, 210-211 (1948); *McGowan v. Maryland*, 366 U.S. 420, 430 (1961); *Torcaso v. Watkins*, 367 U.S. 488, 493 (1961), the Court defined the establishment clause in the following language:

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between Church and State."

[20]*Cf.* former Cal. Corp. Code §9505 (West, 1979).

[21]*NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502, (1979).

[22]Brief of American Civil Liberties Union of Southern California, page 16.

Conclusion.

The Charitable Trust Theory of the California Attorney General appears as an engine of destruction to the expression of freedom of religion in the United States, and the right of Association. It seems unlikely that the Attorney General can be trusted to restrict voluntarily the scope and the application of this theory as it affects religious organizations. For that reason, amicus believes it is imperative that this Court grant the Petition for Certiorari in order to permit full and complete argument of these issues and, in particular, to defined the legitimacy, if any, of the theory of public charitable trusts espoused by the Attorney General.

Respectfully submitted,

BROWN AND REED, INC.,
By STEPHEN W. REED,
Attorney for Amicus Curiae.